

AN ACT

To amend sections 101.45, 117.18, 119.09, 124.09, 169.08, 317.36, 505.495, 709.032, 733.39, 1121.38, 1315.17, 1315.24, 1321.07, 1321.42, 1509.36, 1513.131, 1571.10, 1571.14, 1707.23, 1901.26, 1905.26, 2335.06, 2335.08, 2743.06, 2743.65, 3745.05, 3901.04, 3901.321, 4112.04, 4121.16, 4123.13, 4167.10, 4301.04, 4503.03, 4517.32, 4701.29, 4723.29, 4725.23, 4728.05, 4730.26, 4731.22, 4735.04, 4738.11, 4741.03, 4760.14, 4762.14, 4763.04, 4769.06, 4903.05, 5101.37, 5120.30, 5123.14, 5123.96, 5149.11, 5703.29, 5727.62, and 5924.47 and to enact sections 119.094, 317.114, 317.37, and 3333.30 of the Revised Code to establish standard format requirements for documents to be recorded by a county recorder, to allow recording of a single instrument for multiple transactions pertaining to oil and gas, to permit the board of county commissioners in each county to set the mileage reimbursement rate for witnesses in civil cases in county courts at a rate not to exceed fifty and one-half cents per mile, to set the mileage reimbursement rate for witnesses in other courts of record and state adjudication hearings at fifty and one-half cents per mile, and to authorize the Chancellor of the Ohio Board of Regents to enter into an agreement with private entities to provide access to career information on the Board of Regents' web site.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 101.45, 117.18, 119.09, 124.09, 169.08, 317.36, 505.495, 709.032, 733.39, 1121.38, 1315.17, 1315.24, 1321.07, 1321.42, 1509.36, 1513.131, 1571.10, 1571.14, 1707.23, 1901.26, 1905.26, 2335.06, 2335.08, 2743.06, 2743.65, 3745.05, 3901.04, 3901.321, 4112.04, 4121.16, 4123.13, 4167.10, 4301.04, 4503.03, 4517.32, 4701.29, 4723.29, 4725.23, 4728.05, 4730.26, 4731.22, 4735.04, 4738.11, 4741.03, 4760.14, 4762.14, 4763.04, 4769.06, 4903.05, 5101.37, 5120.30, 5123.14, 5123.96, 5149.11, 5703.29, 5727.62, and 5924.47 be amended and sections 119.094, 317.114, 317.37, and 3333.30 of the Revised Code be enacted to read as follows:

Sec. 101.45. Sheriffs ~~and witnesses~~ shall be paid the same fees ~~and mileage~~ for services ~~and attendance~~ as are allowed in the court of common pleas for similar services ~~and attendance~~. Witnesses shall be paid the same fees and mileage as witnesses are provided under section 119.094 of the Revised Code. Such fees and mileage shall be paid from the state treasury on the certificate of the ~~chairman~~ chairperson of the committee or subcommittee which issued the subpoena.

Sec. 117.18. (A) The auditor of state and any employee designated by the auditor of state may, in the performance of any audit, issue and serve subpoenas and compulsory process or direct service thereof by a sheriff or constable, compel the attendance of witnesses and the production of records, administer oaths, and apply to a court of competent jurisdiction to punish for disobedience of subpoena, refusal to be sworn, refusal to answer as a witness, or refusal to produce records. Sheriffs and constables shall receive the same fees as for like services in similar cases, ~~and witnesses~~. Witnesses shall receive the same fees and mileage as witnesses are allowed in the court of common pleas provided under section 119.094 of the Revised Code.

(B) The auditor of state and any employee designated by the auditor of state may exercise any authority granted by this section on behalf of any public accountant conducting an audit pursuant to this chapter when so requested.

Sec. 119.09. As used in this section "stenographic record" means a record provided by stenographic means or by the use of audio electronic recording devices, as the agency determines.

For the purpose of conducting any adjudication hearing required by sections 119.01 to 119.13 of the Revised Code, the agency may require the attendance of such witnesses and the production of such books, records, and papers as it desires, and it may take the depositions of witnesses residing within or without the state in the same manner as is prescribed by law for

the taking of depositions in civil actions in the court of common pleas, and for that purpose the agency may, and upon the request of any party receiving notice of the hearing as required by section 119.07 of the Revised Code shall, issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. ~~The fees and mileage of the sheriff and witnesses shall be paid~~ the same fees for services as that are allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Fees and mileage shall be paid from the fund in the state treasury for the use of the agency in the same manner as other expenses of the agency are paid.

An agency may postpone or continue any adjudication hearing upon the application of any party or upon its own motion.

In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which ~~he~~ the witness may lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs or any judge thereof, on application by the agency shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein.

At any adjudication hearing required by sections 119.01 to 119.13 of the Revised Code, the record of which may be the basis of an appeal to court, a stenographic record of the testimony and other evidence submitted shall be taken at the expense of the agency. Such record shall include all of the testimony and other evidence, and rulings on the admissibility thereof presented at the hearing. This paragraph does not require a stenographic record at every adjudication hearing. In any situation where an adjudication hearing is required by sections 119.01 to 119.13 of the Revised Code, if an adjudication order is made without a stenographic record of the hearing, the agency shall, on request of the party, afford a hearing or rehearing for the purpose of making such a record which may be the basis of an appeal to court. The rules of an agency may specify the situations in which a stenographic record will be made only on request of the party; otherwise such a record shall be made at every adjudication hearing from which an appeal to court might be taken.

The agency shall pass upon the admissibility of evidence, but a party may at the time make objection to the rulings of the agency thereon, and if the agency refuses to admit evidence, the party offering the same shall make

a proffer thereof, and such proffer shall be made a part of the record of such hearing.

In any adjudication hearing required by sections 119.01 to 119.13 of the Revised Code, the agency may call any party to testify under oath as upon cross-examination.

The agency, or any one delegated by it to conduct an adjudication hearing, may administer oaths or affirmations.

In any adjudication hearing required by sections 119.01 to 119.13 of the Revised Code, the agency may appoint a referee or examiner to conduct the hearing. The referee or examiner shall have the same powers and authority in conducting the hearing as is granted to the agency. Such referee or examiner shall have been admitted to the practice of law in the state and be possessed of such additional qualifications as the agency requires. The referee or examiner shall submit to the agency a written report setting forth ~~his~~ the referee's or examiner's findings of fact and conclusions of law and a recommendation of the action to be taken by the agency. A copy of such written report and recommendation of the referee or examiner shall within five days of the date of filing thereof, be served upon the party or ~~his~~ the party's attorney or other representative of record, by certified mail. The party may, within ten days of receipt of such copy of such written report and recommendation, file with the agency written objections to the report and recommendation, which objections shall be considered by the agency before approving, modifying, or disapproving the recommendation. The agency may grant extensions of time to the party within which to file such objections. No recommendation of the referee or examiner shall be approved, modified, or disapproved by the agency until after ten days after service of such report and recommendation as provided in this section. The agency may order additional testimony to be taken or permit the introduction of further documentary evidence. The recommendation of the referee or examiner may be approved, modified, or disapproved by the agency, and the order of the agency based on such report, recommendation, transcript of testimony and evidence, or objections of the parties, and additional testimony and evidence shall have the same effect as if such hearing had been conducted by the agency. No such recommendation shall be final until confirmed and approved by the agency as indicated by the order entered on its record of proceedings, and if the agency modifies or disapproves the recommendations of the referee or examiner it shall include in the record of its proceedings the reasons for such modification or disapproval.

After such order is entered on its journal, the agency shall serve by

certified mail, return receipt requested, upon the party affected thereby, a certified copy of the order and a statement of the time and method by which an appeal may be perfected. A copy of such order shall be mailed to the attorneys or other representatives of record representing the party.

Sec. 119.094. (A) Unless otherwise provided by the Revised Code, each witness subpoenaed to an adjudication hearing shall receive twelve dollars for each full day's attendance and six dollars for each half day's attendance. Each witness also shall receive fifty and one-half cents for each mile necessarily traveled to and from the witness's place of residence to the adjudication hearing.

(B) As used in this section:

(1) "Full day's attendance" means a day on which a witness is required or requested to be present at an adjudication hearing before and after twelve noon, regardless of whether the witness actually testifies.

(2) "Half day's attendance" means a day on which a witness is required or requested to be present at an adjudication hearing either before or after twelve noon, but not both, regardless of whether the witness actually testifies.

Sec. 124.09. The director of administrative services shall do all of the following:

(A) Prescribe, amend, and enforce administrative rules for the purpose of carrying out the functions, powers, and duties vested in and imposed upon the director by this chapter. Except in the case of rules adopted pursuant to section 124.14 of the Revised Code, the prescription, amendment, and enforcement of rules under this division are subject to approval, disapproval, or modification by the state personnel board of review.

(B) Keep records of the director's proceedings and records of all applications for examinations and all examinations conducted by the director. All of those records, except examinations, proficiency assessments, and recommendations of former employers, shall be open to public inspection under reasonable regulations; provided the governor, or any person designated by the governor, may, for the purpose of investigation, have free access to all of those records, whenever the governor has reason to believe that this chapter, or the administrative rules of the director prescribed under this chapter, are being violated.

(C) Prepare, continue, and keep in the office of the department of administrative services a complete roster of all persons in the classified civil service of the state who are paid directly by warrant of the director of budget and management. This roster shall be open to public inspection at all

reasonable hours. It shall show in reference to each of those persons, the person's name, address, date of appointment to or employment in the classified civil service of the state, and salary or compensation, the title of the place or office that the person holds, the nature of the duties of that place or office, and, in case of the person's removal or resignation, the date of the termination of that service.

(D) Approve the establishment of all new positions in the civil service of the state and the reestablishment of abolished positions;

(E) Require the abolishment of any position in the civil service of the state that is not filled after a period of twelve months unless it is determined that the position is seasonal in nature or that the vacancy is otherwise justified;

(F) Make investigations concerning all matters touching the enforcement and effect of this chapter and the administrative rules of the director of administrative services prescribed under this chapter. In the course of those investigations, the director or the director's deputy may administer oaths and affirmations and take testimony relative to any matter which the director has authority to investigate.

(G) Have the power to subpoena and require the attendance and testimony of witnesses and the production of books, papers, public records, and other documentary evidence pertinent to the investigations, inquiries, or hearings on any matter which the director has authority to investigate, inquire into, or hear, and to examine them in relation to any matter which the director has authority to investigate, inquire into, or hear. Fees and mileage shall be allowed to witnesses and, on their certificate, duly audited, shall be paid by the treasurer of state or, in the case of municipal or civil service township civil service commissions, by the county treasurer, for attendance and traveling, as ~~is provided in section 2335.06~~ 119.094 of the Revised Code ~~for witnesses in courts of record~~. All officers in the civil service of the state or any of the political subdivisions of the state and their deputies, clerks, and employees shall attend and testify when summoned to do so by the director or the state personnel board of review. Depositions of witnesses may be taken by the director or the board, or any member of the board, in the manner prescribed by law for like depositions in civil actions in the courts of common pleas. In case any person, in disobedience to any subpoena issued by the director or the board, or any member of the board, or the chief examiner, fails or refuses to attend and testify to any matter regarding which the person may be lawfully interrogated, or produce any documentary evidence pertinent to any investigation, inquiry, or hearing, the court of common pleas of any county, or any judge of the court of common

pleas of any county, where the disobedience, failure, or refusal occurs, upon application of the director or the board, or any member of the board, or a municipal or civil service township civil service commission, or any commissioner of such a commission, or their chief examiner, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court.

(H) Make a report to the governor, on or before the first day of January of each year, showing the director's actions, the rules and all exceptions to the rules in force, and any recommendations for the more effectual accomplishment of the purposes of this chapter. The director shall also furnish any special reports to the governor whenever the governor requests them. The reports shall be printed for public distribution under the same regulations as are the reports of other state officers, boards, or commissions.

Sec. 169.08. (A) Any person claiming a property interest in unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code, including the office of child support in the department of job and family services, pursuant to section 3123.88 of the Revised Code, may file a claim thereto on the form prescribed by the director of commerce.

(B) The director shall consider matters relevant to any claim filed under division (A) of this section and shall hold a formal hearing if requested or considered necessary and receive evidence concerning such claim. A finding and decision in writing on each claim filed shall be prepared, stating the substance of any evidence received or heard and the reasons for allowance or disallowance of the claim. The evidence and decision shall be a public record. No statute of limitations shall bar the allowance of a claim.

(C) For the purpose of conducting any hearing, the director may require the attendance of such witnesses and the production of such books, records, and papers as the director desires, and the director may take the depositions of witnesses residing within or without this state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the director may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned. The fees ~~and mileage~~ of the sheriff ~~and witnesses~~ shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Fees and mileage shall be paid from the unclaimed funds trust fund.

(D) Interest is not payable to claimants of unclaimed funds held by the

state. Claims shall be paid from the trust fund. If the amount available in the trust fund is not sufficient to pay pending claims, or other amounts disburseable from the trust fund, the treasurer of state shall certify such fact to the director, who shall then withdraw such amount of funds from the mortgage accounts as the director determines necessary to reestablish the trust fund to a level required to pay anticipated claims but not more than ten per cent of the net unclaimed funds reported to date.

The director shall retain in the trust fund, as a fee for administering the funds, five per cent of the total amount of unclaimed funds payable to the claimant and may withdraw the funds paid to the director by the holders and deposited by the director with the treasurer of state or in a financial institution as agent for such funds. Whenever these funds are inadequate to meet the requirements for the trust fund, the director shall provide for a withdrawal of funds, within a reasonable time, in such amount as is necessary to meet the requirements, from financial institutions in which such funds were retained or placed by a holder and from other holders who have retained funds, in an equitable manner as prescribed by the director. In the event that the amount to be withdrawn from any one such holder is less than five hundred dollars, the amount to be withdrawn shall be at the discretion of the director. Such funds may be reimbursed in the amounts withdrawn when the trust fund has a surplus over the amount required to pay anticipated claims. Whenever the trust fund has a surplus over the amount required to pay anticipated claims, the director may transfer such surplus to the mortgage accounts.

(E) If a claim which is allowed under this section relates to funds which have been retained by the reporting holder, and if the funds, on deposit with the treasurer of state pursuant to this chapter, are insufficient to pay claims, the director may notify such holder in writing of the payment of the claim and such holder shall immediately reimburse the state in the amount of such claim. The reimbursement shall be credited to the unclaimed funds trust fund.

(F) Any person, including the office of child support, adversely affected by a decision of the director may appeal such decision in the manner provided in Chapter 119. of the Revised Code.

In the event the claimant prevails, the claimant shall be reimbursed for reasonable attorney's fees and costs.

(G) Notwithstanding anything to the contrary in this chapter, any holder who has paid moneys to or entered into an agreement with the director pursuant to section 169.05 of the Revised Code on certified checks, cashiers' checks, bills of exchange, letters of credit, drafts, money orders, or travelers'

checks, may make payment to any person entitled thereto, including the office of child support, and upon surrender of the document, except in the case of travelers' checks, and proof of such payment, the director shall reimburse the holder for such payment without interest.

Sec. 317.114. (A) Except as otherwise provided in division (B) of this section, an instrument or document presented for recording to the county recorder shall have been prepared in accordance with all of the following requirements:

(1) Print size not smaller than a computer font size of ten;

(2) Minimum paper size of eight and one-half inches by eleven inches;

(3) Maximum paper size of eight and one-half inches by fourteen inches;

(4) Black or blue ink only;

(5) No use of highlighting;

(6) Margins of one-inch width on each side of each page of the instrument or document;

(7) A margin of one-inch width across the bottom of each page of the instrument or document;

(8) A three-inch margin of blank space across the top of the first page of each instrument or document to accommodate any certification or indorsement of the county engineer, county auditor, or county recorder, as may be required by law, with the right half of that margin being reserved for the indorsement of the county recorder required by section 317.12 of the Revised Code; and

(9) A one and one-half-inch margin across the top of each of the remaining pages of the instrument or document.

The county recorder shall accept for recording an instrument or document that does not conform to the foregoing requirements but shall charge and collect the following additional fees for each such instrument or document: an additional base fee for the recorder's services of ten dollars and a housing trust fund fee of ten dollars, which shall be collected pursuant to section 317.36 of the Revised Code.

(B) This section does not apply to any of the following:

(1) Any document that originates with any court or taxing authority;

(2) Any document authorized to be recorded under section 317.24 of the Revised Code;

(3) Any plat, as defined in section 711.001 of the Revised Code, that is required or authorized by the Revised Code to be recorded;

(4) Any document authorized to be recorded that originates from any state or federal agency;

(5) Any document executed before the effective date of this section.

Sec. 317.36. (A) The county recorder shall collect the low- and moderate-income housing trust fund fee as specified in sections 317.114, 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 5111.022, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 6101.09, and 6115.09 of the Revised Code. The amount of any housing trust fund fee the recorder is authorized to collect is equal to the amount of any base fee the recorder is authorized to collect for services. The housing trust fund fee shall be collected in addition to the base fee.

(B) The recorder shall certify the amounts collected as housing trust fund fees pursuant to division (A) of this section into the county treasury as housing trust fund fees to be paid to the treasurer of state pursuant to section 319.63 of the Revised Code.

Sec. 317.37. As used in sections 5301.28 to 5301.35 of the Revised Code, "separate instrument" means either the recording of an entirely new instrument or a written and signed entry on the margin of the original instrument bearing the proper endorsement that is recorded distinct and apart from the original instrument of record. For instruments that convey or affect an interest in crude oil or natural gas, such as a lease, assignment, easement, lien, or right-of-way, in a county in which the county recorder requires an assignment, release, partial release, satisfaction, cancellation, or waiver of priority to be made by separate instrument, the county recorder does not have the power to limit the number of assignments, releases, partial releases, satisfactions, cancellations, or waivers of priority that may be executed and recorded by means of a single instrument.

Sec. 505.495. In all cases in which the attendance of witnesses may be compelled for an investigation, under section 505.494 of the Revised Code, any member of the board of township trustees may administer the requisite oaths. The board has the same power to compel the giving of testimony by attending witnesses as is conferred upon courts. In all such cases, witnesses shall be entitled to the same privileges, and immunities, and compensation as are allowed witnesses in civil cases. Witnesses shall be paid the fees and mileage provided for under section 1901.26 of the Revised Code, and the costs of all such proceedings shall be payable from the general fund of the township.

Sec. 709.032. (A) As used in this section, "necessary party" means the municipal corporation to which annexation is proposed, each township any portion of which is included within the territory proposed for annexation, and the agent for the petitioners.

(B) The hearing provided for in section 709.03 of the Revised Code

shall be public. The board of county commissioners may, or at the request of any necessary party shall, issue subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the petition, directed to the sheriff of each county where the witnesses or documents or records are found, which subpoenas shall be served and returned in the same manner as those allowed by the court of common pleas in criminal cases. ~~The fees and mileage of sheriffs and witnesses shall be the same as those allowed by the court of common pleas in criminal cases.~~ Witnesses shall be paid the fees and mileage provided for under section 1901.26 of the Revised Code. The fee and mileage expenses incurred at the request of a party shall be paid in advance by the party, and the remainder of the expenses shall be paid out of fees charged by the board for the annexation proceedings. In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which the disobedience, neglect, or refusal occurs, or any judge of that court, on application of the board, any member of the board, or a necessary party, may compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. An owner of a company, firm, partnership, association, or corporation that is subpoenaed may have an agent or attorney appear before the board on that owner's behalf in response to the subpoena.

The board of county commissioners shall make, by electronic means or some other suitable method, a record of the hearing. If a request, accompanied by a deposit to pay the costs, is filed with the board not later than seven days before the hearing, the board shall provide an official court reporter to record the hearing. The record of the hearing need not be transcribed unless a request, accompanied by an amount to cover the cost of transcribing the record, is filed with the board.

(C) Any person may appear in person or by attorney and, after being sworn, may support or contest the granting of the petition. Affidavits presented in support of or against the petition shall be considered by the board, but only if the affidavits are filed with the board and served as provided in the Rules of Civil Procedure upon the necessary parties to the annexation proceedings at least fifteen days before the date of the hearing; provided that the board shall accept an affidavit after the fifteen-day period if the purpose of the affidavit is only to establish the affiant's authority to sign the petition on behalf of the entity for which the affiant signed.

Necessary parties or their representatives are entitled to present evidence, examine and cross-examine witnesses, and comment on all evidence, including any affidavits presented to the board under this division.

(D) At the hearing, any owner who signed the petition for annexation may appear and, after being sworn as provided by section 305.21 of the Revised Code, testify orally that the owner's signature was obtained by fraud, duress, misrepresentation, including any misrepresentation relating to the provision of municipal services to the territory proposed to be annexed, or undue influence. Any person may testify orally after being so sworn in support of or rebuttal to the prior testimony by the owner. Any witnesses and owners who testify shall be subject to cross-examination by the necessary parties to the annexation proceedings. If a majority of the county commissioners find that the owner's signature was obtained under circumstances that did constitute fraud, duress, misrepresentation, or undue influence, they shall find the signature to be void and shall order it removed from the petition as of the time the petition was filed.

Sec. 733.39. In all cases in which the attendance of witnesses may be compelled for an investigation under section 733.38 of the Revised Code, any member of the legislative authority of the municipal corporation may administer the requisite oaths, and such legislative authority has the same power to compel the giving of testimony by attending witnesses as is conferred upon courts. In all such cases, witnesses shall be entitled to the same privileges, and immunities, and compensation as are allowed witnesses in civil cases. Witnesses shall be paid the same fees and mileage provided for under section 1901.26 of the Revised Code, and the costs of all such proceedings shall be payable from the general fund of the municipal corporation.

Sec. 1121.38. (A)(1) An administrative hearing provided for in section 1121.32, 1121.33, 1121.35, or 1121.41 of the Revised Code shall be held in the county in which the principal place of business of the bank or trust company or residence of the regulated person is located, unless the bank, trust company, or regulated person requesting the hearing consents to another place. Within ninety days after the hearing, the superintendent of financial institutions shall render a decision, which shall include findings of fact upon which the decision is predicated, and shall issue and serve on the bank, trust company, or regulated person the decision and an order consistent with the decision. Judicial review of the order is exclusively as provided in division (B) of this section. Unless a notice of appeal is filed in a court of common pleas within thirty days after service of the superintendent's order as provided in division (B) of this section, and until

the record of the administrative hearing has been filed, the superintendent may, at anytime, upon the notice and in the manner the superintendent considers proper, modify, terminate, or set aside the superintendent's order. After filing the record, the superintendent may modify, terminate, or set aside the superintendent's order with permission of the court.

(2) In the course of, or in connection with, an administrative hearing governed by this section, the superintendent, or a person designated by the superintendent to conduct the hearing, may administer oaths and affirmations, take or cause depositions to be taken, and issue, revoke, quash, or modify subpoenas and subpoenas duces tecum. The superintendent may adopt rules regarding these hearings. The attendance of witnesses and the production of documents provided for in this section may be required from any place within or outside the state. A party to a hearing governed by this section may apply to the court of common pleas of Franklin county, or the court of common pleas of the county in which the hearing is being conducted or the witness resides or carries on business, for enforcement of a subpoena or subpoena duces tecum issued pursuant to this section, and the courts have jurisdiction and power to order and require compliance with the subpoena. Witnesses subpoenaed under this section shall be paid the ~~same~~ fees and mileage ~~that are paid witnesses in the courts of common pleas in civil cases provided for under section 119.094 of the Revised Code.~~

(B)(1) A bank, trust company, or regulated person against whom the superintendent issues an order upon the record of a hearing under the authority of section 1121.32, 1121.33, 1121.35, or 1121.41 of the Revised Code may obtain a review of the order by filing a notice of appeal in the court of common pleas in the county in which the principal place of business of the bank, trust company, or regulated person, or residence of the regulated person, is located, or in the court of common pleas of Franklin county, within thirty days after the date of service of the superintendent's order. The clerk of the court shall promptly transmit a copy of the notice of appeal to the superintendent, and the superintendent shall file the record of the administrative hearing. Upon the filing of the notice of appeal, the court has jurisdiction, which upon the filing of the record of the administrative hearing is exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the superintendent's order.

(2) The commencement of proceedings for judicial review pursuant to division (B) of this section does not, unless specifically ordered by the court, operate as a stay of any order issued by the superintendent. If it appears to the court an unusual hardship to the appellant bank, trust company, or regulated person will result from the execution of the superintendent's order

pending determination of the appeal, and the interests of depositors and the public will not be threatened by a stay of the order, the court may grant a stay and fix its terms.

(C) The superintendent may, in the sole discretion of the superintendent, apply to the court of common pleas of the county in which the principal place of business of the bank, trust company, or regulated person, or residence of the regulated person, is located, or the court of common pleas of Franklin county, for the enforcement of an effective and outstanding superintendent's order issued under section 1121.32, 1121.33, 1121.34, 1121.35, or 1121.41 of the Revised Code, and the court has jurisdiction and power to order and require compliance with the superintendent's order. In an action by the superintendent pursuant to this division to enforce an order assessing a civil penalty issued under section 1121.35 of the Revised Code, the validity and appropriateness of the civil penalty is not subject to review.

(D) No court has jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of an order issued under section 1121.32, 1121.33, 1121.34, 1121.35, or 1121.41 of the Revised Code or to review, modify, suspend, terminate, or set aside an order issued under section 1121.32, 1121.33, 1121.34, 1121.35, or 1121.41 of the Revised Code, except as provided in this section, in division (G) of section 1121.32 of the Revised Code for an order issued pursuant to division (C)(3) or (4) of section 1121.32 of the Revised Code, or in division (A)(3) of section 1121.34 of the Revised Code for an order issued pursuant to division (A)(1) of section 1121.34 of the Revised Code.

(E) Nothing in this section or in any other section of the Revised Code or rules implementing this or any other section of the Revised Code shall prohibit or limit the superintendent from doing any of the following:

(1) Issuing orders pursuant to section 1121.32, 1121.33, 1121.34, 1121.35, or 1121.41 of the Revised Code;

(2) Individually or contemporaneously taking any other action provided by law or rule with respect to a bank, trust company, or regulated person;

(3) Taking any action provided by law or rule with respect to a bank, trust company, or regulated person, whether alone or in conjunction with another regulatory agency or authority.

Sec. 1315.17. (A)(1) Upon a licensee's or other person's request for an administrative hearing authorized in section 1315.15, 1315.151, or 1315.152 of the Revised Code, the division of financial institutions shall set a reasonable time, date, and place in this state for the hearing and notify the licensee or other person requesting the hearing. Within ninety days after the hearing, the superintendent of financial institutions shall render a decision,

which shall include findings of fact upon which the decision is predicated, and shall issue and serve on the licensee or other person the decision and an order consistent with the decision. Judicial review of the order exclusively is as provided in division (B) of this section. Unless a notice of appeal is filed within thirty days after service of the superintendent's order as provided in division (B) of this section, and until the record of the administrative hearing has been filed, the superintendent may, at anytime, upon the notice and in the manner that the superintendent considers proper, modify, terminate, or set aside the superintendent's order. After filing the record, the superintendent may modify, terminate, or set aside the superintendent's order with permission of the court.

(2) In the course of, or in connection with, an administrative hearing governed by this section, the superintendent, or a person designated by the superintendent to conduct the hearing, may administer oaths and affirmations; take or cause depositions to be taken; and issue, revoke, quash, or modify subpoenas and subpoenas duces tecum. The superintendent may adopt rules regarding these hearings. The attendance of witnesses and the production of documents provided for in this section may be required from any place within or outside the state. A party to a hearing governed by this section may apply to the court of common pleas of Franklin county, or the court of common pleas of the county in which the hearing is being conducted or the witness resides or carries on business, for enforcement of a subpoena or subpoena duces tecum issued pursuant to this section, and the courts have jurisdiction and power to order and require compliance with the subpoena. Witnesses subpoenaed under this section shall be paid the same fees and mileage ~~that are paid witnesses in the courts of common pleas in civil cases~~ provided for under section 119.094 of the Revised Code.

(B)(1) A licensee or other person against whom the superintendent issues an order upon the record of a hearing under the authority of section 1315.15, 1315.151, or 1315.152 of the Revised Code may obtain a review of the order by filing a notice of appeal in the court of common pleas in the county in which the principal place of business of the licensee or other person, or the residence of the other person, is located, or in the court of common pleas of Franklin county, within thirty days after the date of service of the superintendent's order. The clerk of the court promptly shall transmit a copy of the notice of appeal to the superintendent, and the superintendent shall file the record of the administrative hearing. Upon the filing of the notice of appeal, the court has jurisdiction, which upon the filing of the record of the administrative hearing is exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the superintendent's order.

(2) The commencement of proceedings for judicial review pursuant to division (B) of this section does not, unless specifically ordered by the court, operate as a stay of any order issued by the superintendent. If it appears to the court an unusual hardship to the appellant will result from the execution of the superintendent's order pending determination of the appeal, and the interests of the public will not be threatened by a stay of the order, the court may grant a stay and fix its terms.

(C) The superintendent may, in the sole discretion of the superintendent, apply to the court of common pleas of the county in which the principal place of business of the licensee or other person, or the residence of the other person, is located, or the court of common pleas of Franklin county, for the enforcement of an effective and outstanding superintendent's order issued under section 1315.15, 1315.151, or 1315.152 of the Revised Code, and the court has jurisdiction and power to order and require compliance with the superintendent's order. In an action by the superintendent pursuant to this division to enforce an order assessing a civil penalty issued under section 1315.152 of the Revised Code, the validity and appropriateness of the civil penalty is not subject to review.

(D) No court has jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of an order issued under section 1315.15, 1315.151, or 1315.152 of the Revised Code or to review, modify, suspend, terminate, or set aside an order issued under section 1315.15, 1315.151, or 1315.152 of the Revised Code, except as provided in this section, in division (G) of section 1315.15 of the Revised Code for an order issued pursuant to division (C)(3) or (4) of section 1315.15 of the Revised Code, or in division (F) of section 1315.151 of the Revised Code for an order issued pursuant to division (C)(3) or (4) of section 1315.151 of the Revised Code.

(E) Nothing in this section or in any other section of the Revised Code or rules implementing this or any other section of the Revised Code shall prohibit or limit the superintendent from doing any of the following:

(1) Issuing orders pursuant to section 1315.15, 1315.151, or 1315.152 of the Revised Code;

(2) Individually or contemporaneously taking any other action provided by law or rule with respect to a licensee or other person;

(3) Taking any action provided by law or rule, whether alone or in conjunction with another regulatory agency or authority, with respect to a licensee or other person.

Sec. 1315.24. (A) The superintendent of financial institutions may make any investigation and conduct any hearing the superintendent considers necessary to determine whether any person has violated sections 1315.21 to

1315.28 of the Revised Code, or has engaged in conduct that would justify the suspension, revocation, or refusal of an original or renewal check-cashing license.

(B) In making any investigation or conducting any hearing pursuant to this section, the superintendent, or any person designated by the superintendent, at any time may compel by subpoena witnesses, may take depositions of witnesses residing without the state in the manner provided for in civil actions, pay any witnesses the fees and mileage for their attendance provided for ~~witnesses in civil actions~~ under section 119.094 of the Revised Code, and administer oaths. The superintendent also may compel by order or subpoena duces tecum the production of, and examine, all relevant books, records, accounts, and other documents. If a person does not comply with a subpoena or subpoena duces tecum, the superintendent may apply to the court of common pleas of Franklin county for an order compelling the person to comply with the subpoena or subpoena duces tecum or, for failure to do so, an order to be held in contempt of court. If the person is licensed under section 1315.23 of the Revised Code, the superintendent also may suspend, revoke, or refuse an original or renewal license.

(C) In connection with any investigation under this section, the superintendent may file an action in the court of common pleas of Franklin county or the court of common pleas of the county in which the person who is the subject of the investigation resides, or is engaging in or proposing to engage in actions in violation of sections 1315.21 to 1315.28 of the Revised Code, to obtain an injunction, temporary restraining order, or other appropriate relief.

Sec. 1321.07. At least once each year the division of financial institutions shall make an examination of the business, loans, books, papers, and records of each licensee so far as they pertain to the licensed business, and it may make such an examination more frequently if it is necessary for the proper administration of sections 1321.01 to 1321.19 of the Revised Code.

For the purpose of discovering violations, the division may at any time investigate the business and examine the books, accounts, papers, and records used therein, of:

(A) Licensees;

(B) Other persons engaged in the business described in section 1321.02 of the Revised Code or participating in such business as principal, agent, broker, or otherwise;

(C) Any person whom the division has reasonable cause to believe has

violated, is violating, or is about to violate sections 1321.01 to 1321.19 of the Revised Code, whether or not the person claims to act under such sections. For the purpose of this section, any person who advertises, solicits, or holds ~~himself, herself, or itself~~ self out as willing to make, find, or arrange for another person to make loan transactions in the amount or of the value of five thousand dollars or less, is presumed to be engaged in the business described in the first paragraph of section 1321.02 of the Revised Code.

For the purpose of this section, the division shall have and be given free access to the offices and places of business, files, safes, and vaults of all such persons, and may require the attendance of, and examine under oath, any person relative to such loans or such business or to the subject matter of any examination, investigation, or hearing. The division may require the attendance of such witnesses and the production of such books, records, and papers, as may be required either by the division or by any party to a hearing before the division, and for that purpose may issue a subpoena for any witness or a subpoena duces tecum, to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in criminal cases is served and returned.

The fees ~~and mileage~~ of the sheriff ~~and witnesses~~ shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Fees and mileage shall be paid from the funds of the division. No witness subpoenaed at the instance of parties other than the division is entitled to compensation from the state for attendance or travel unless the division certifies that the witness' testimony was material to the subject matter of the hearing.

If any person fails to file any statement or report, or fails to obey any subpoena, or to give testimony, or to answer questions, or to produce any books, records, documents, accounts, or papers as required by the division under sections 1321.01 to 1321.19 of the Revised Code, any court of common pleas, upon application made to it and upon proof being made of such failure, may make an order awarding process of subpoena or subpoena duces tecum out of the court for such witness to appear and testify before the division, and may make an order that any person give testimony and answer questions as required, and produce books, records, documents, accounts, or papers as required. Upon filing such order with the clerk of the court of common pleas, the clerk shall, under the seal of the court, issue process of subpoena to appear before the division at a time and place named

therein, and so from day to day until the examination of such person is completed. The subpoena may contain a direction that such witness bring to such examination any books, records, documents, accounts, or papers therein mentioned, and the clerk shall issue, under the seal of the court, such other or further orders in reference to the examination, appearance, and production of books, records, documents, accounts, or papers as the court directs. If any person so summoned by subpoena issued by the clerk fails to obey the subpoena or to answer any directions therein, or to give testimony, or to answer questions as required, or to produce any books, records, documents, accounts, or papers as required, or if any such person fails to obey any order, the court, on motion supported by proof, may order an attachment for contempt to be issued against any person charged with disobeying any order or injunction issued out of the court of common pleas under sections 1321.01 to 1321.19 of the Revised Code. If the person so offending is brought before the court by virtue of such attachment, and if upon a hearing such disobedience appears, the court may order the offender to be committed and kept in close custody until the further order of the court.

Sec. 1321.42. (A) The superintendent of financial institutions shall, in accordance with Chapter 119. of the Revised Code, suspend or revoke a license issued pursuant to sections 1321.35 to 1321.48 of the Revised Code, if the superintendent determines that either of the following applies:

(1) The licensee has failed to comply with any order issued by the superintendent pursuant to section 1321.43 of the Revised Code.

(2) Any fact or condition exists that if it had existed or had been known to exist at the time of original or renewal licensure pursuant to sections 1321.35 to 1321.48 of the Revised Code, the fact or condition clearly would have warranted the superintendent to refuse to issue a license pursuant to those sections.

(B) The superintendent may make any investigation and conduct any hearing the superintendent considers necessary to determine whether any person has violated sections 1321.35 to 1321.48 of the Revised Code, or any rule or order adopted or issued under section 1321.43 of the Revised Code, or has otherwise engaged in conduct that would justify the suspension, revocation, or refusal of an original or renewal license or the imposition of a fine.

The superintendent may impose a monetary fine of not more than one thousand dollars for each such violation.

(C) In making any investigation or conducting any hearing pursuant to this section, the superintendent, or any person designated by the

superintendent, at any time may compel by subpoena witnesses, may take depositions of witnesses residing without the state in the manner provided for in civil actions, pay any witnesses the fees and mileage for their attendance provided ~~for witnesses in civil actions~~ under section 119.094 of the Revised Code, and administer oaths. The superintendent also may compel by order or subpoena duces tecum the production of, and examine, all relevant books, records, accounts, and other documents. If a person does not comply with a subpoena or subpoena duces tecum, the superintendent may apply to the court of common pleas of Franklin county for an order compelling the person to comply with the subpoena or subpoena duces tecum or, for failure to do so, an order to be held in contempt of court.

(D) In connection with any investigation under this section, the superintendent may file an action in the court of common pleas of Franklin county or the court of common pleas of the county in which the person who is the subject of the investigation resides, or is engaging in or proposing to engage in actions in violation of sections 1321.35 to 1321.48 of the Revised Code, to obtain an injunction, temporary restraining order, or other appropriate relief.

Sec. 1509.36. Any person claiming to be aggrieved or adversely affected by an order by the chief of the division of mineral resources management may appeal to the oil and gas commission for an order vacating or modifying such order.

The person so appealing to the commission shall be known as appellant and the chief shall be known as appellee. Appellant and appellee shall be deemed to be parties to the appeal.

The appeal shall be in writing and shall set forth the order complained of and the grounds upon which the appeal is based. The appeal shall be filed with the commission within thirty days after the date upon which appellant received notice by registered mail of the making of the order complained of. Notice of the filing of the appeal shall be filed with the chief within three days after the appeal is filed with the commission.

Upon the filing of the appeal the commission promptly shall fix the time and place at which the hearing on the appeal will be held, and shall give the appellant and the chief at least ten days' written notice thereof by mail. The commission may postpone or continue any hearing upon its own motion or upon application of appellant or of the chief.

The filing of an appeal provided for in this section does not automatically suspend or stay execution of the order appealed from, but upon application by the appellant the commission may suspend or stay such execution pending determination of the appeal upon such terms as the

commission considers proper.

Either party to the appeal or any interested person who, pursuant to commission rules has been granted permission to appear, may submit such evidence as the commission considers admissible.

For the purpose of conducting a hearing on an appeal, the commission may require the attendance of witnesses and the production of books, records, and papers, and it may, and at the request of any party it shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, or papers, directed to the sheriffs of the counties where such witnesses are found. The subpoenas shall be served and returned in the same manner as subpoenas in criminal cases are served and returned. ~~The fees and mileage of sheriffs and witnesses shall be the same as those allowed by the court of common pleas in criminal cases.~~ Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Such fees and mileage expenses incurred at the request of appellant shall be paid in advance by the appellant, and the remainder of such expenses shall be paid out of funds appropriated for the expenses of the division of mineral resources management.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which such disobedience, neglect, or refusal occurs, or any judge thereof, on application of the commission or any member thereof, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Witnesses at such hearings shall testify under oath, and any member of the commission may administer oaths or affirmations to persons who so testify.

At the request of any party to the appeal, a stenographic record of the testimony and other evidence submitted shall be taken by an official court shorthand reporter at the expense of the party making the request therefor. Such record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The commission shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the rulings of the commission thereon, and if the commission refuses to admit evidence the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

If upon completion of the hearing the commission finds that the order appealed from was lawful and reasonable, it shall make a written order

affirming the order appealed from; if the commission finds that the order was unreasonable or unlawful, it shall make a written order vacating the order appealed from and making the order that it finds the chief should have made. Every order made by the commission shall contain a written finding by the commission of the facts upon which the order is based.

Notice of the making of the order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each such party by certified mail.

The order of the commission is final unless vacated by the court of common pleas of Franklin county in an appeal as provided for in section 1509.37 of the Revised Code. Sections 1509.01 to 1509.37 of the Revised Code, providing for appeals relating to orders by the chief or by the commission, or relating to rules adopted by the chief, do not constitute the exclusive procedure that any person who believes the person's rights to be unlawfully affected by those sections or any official action taken thereunder must pursue in order to protect and preserve those rights, nor do those sections constitute a procedure that that person must pursue before that person may lawfully appeal to the courts to protect and preserve those rights.

Sec. 1513.131. For the purpose of conducting any public adjudicatory hearing under this chapter, the chief, or the reclamation commission may require the attendance of witnesses and the production of books, records, and papers, and may, and at the request of any party, shall issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, papers, or other material relevant to the inquiry, directed to the sheriff of the counties where the witnesses or materials are found, which subpoenas shall be served and returned in the same manner as subpoenas issued by courts of common pleas are served and returned. The fees ~~and mileage~~ of sheriffs ~~and witnesses~~ shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code.

In cases of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, the court of common pleas of the county in which such disobedience, neglect, or refusal occurs, or any judge thereof, on application of the chief or the commission or any member thereof, shall compel obedience by attachment procedures for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

A witness at any hearing shall testify under oath or affirmation, which

the chief or any member of the commission may administer.

Hearing officers designated by the commission shall have the same powers and authority in conducting the hearings as granted to the commission. Whenever a hearing officer conducts a hearing, the officer shall prepare a report setting forth the hearing officer's findings of fact and conclusions of law and a recommendation of the action to be taken by the commission. The hearing officer shall file the report with the secretary of the commission and shall mail a copy by certified mail to the parties. A party may, within fourteen days after receipt of the report, serve and file written objections to the hearing officer's report with the secretary of the commission. Objections shall be specific and state with particularity the grounds therefor. Upon consideration of the objections, the commission may adopt, reject, or modify the report; hear additional evidence; return the report to the hearing officer with instructions; or hear the matter itself.

Sec. 1571.10. (A) The gas storage well inspector or any person having a direct interest in the administration of this chapter may at any time file with the division of mineral resources management a written request that a conference be held for the purpose of discussing and endeavoring to resolve by mutual agreement any question or issue relating to the administration of this chapter, or to compliance with its provisions, or to any violation thereof. Such request shall describe the matter concerning which the conference is requested. Thereupon the gas storage well inspector shall promptly fix the time and place for the holding of such conference and shall send written notice thereof to each person having a direct interest therein. At such conference the gas storage well inspector or a representative of the division designated by the gas storage well inspector shall be in attendance, and shall preside at the conference, and the gas storage well inspector or designated representative may make such recommendations as the gas storage well inspector or designated representative deems proper. Any agreement reached at such conference shall be consistent with the requirements of this chapter and, if approved by the gas storage well inspector, it shall be reduced to writing and shall be effective. Any such agreement approved by the gas storage well inspector shall be kept on file in the division and a copy thereof shall be furnished to each of the persons having a direct interest therein. The conference shall be deemed terminated as of the date an approved agreement is reached or when any person having a direct interest therein refuses to confer thereafter. Such a conference shall be held in all cases prior to the holding of a hearing as provided in this section.

(B) Within ten days after the termination of a conference at which no approved agreement is reached, any person who participated in such

conference and who has a direct interest in the subject matter thereof, or the gas storage well inspector, may file with the chief of the division of mineral resources management a request that the chief hear and determine the matter or matters, or any part thereof considered at the conference. Thereupon the chief shall promptly fix the time and place for the holding of such hearing and shall send written notice thereof to each person having a direct interest therein. The form of the request for such hearing and the conduct of the hearing shall be in accordance with rules that the chief adopts under section 1571.11 of the Revised Code. Consistent with the requirement for reasonable notice each such hearing shall be held promptly after the filing of the request therefor. Any person having a direct interest in the matter to be heard shall be entitled to appear and be heard in person or by attorney. The division may present at such hearing any evidence that is material to the matter being heard and that has come to the division's attention in any investigation or inspection made pursuant to this chapter.

(C) For the purpose of conducting such a hearing the chief may require the attendance of witnesses and the production of books, records, and papers, and the chief may, and at the request of any person having a direct interest in the matter being heard, the chief shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, or papers, directed to the sheriffs of the counties where such witnesses are found, which subpoenas shall be served and returned in the same manner as subpoenas in criminal cases are served and returned. The fees ~~and mileage~~ of sheriffs ~~and witnesses~~ shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Such fee and mileage expenses shall be paid in advance by the persons at whose request they are incurred, and the remainder of such expenses shall be paid out of funds appropriated for the expenses of the division.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which such disobedience, neglect, or refusal occurs, or any judge thereof, on application of the chief, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Witnesses at such hearings shall testify under oath, and the chief may administer oaths or affirmations to persons who so testify.

(D) With the consent of the chief, the testimony of any witness may be

taken by deposition at the instance of a party to any hearing before the chief at any time after hearing has been formally commenced. The chief may, of the chief's own motion, order testimony to be taken by deposition at any stage in any hearing, proceeding, or investigation pending before the chief. Such deposition shall be taken in the manner prescribed by the laws of this state for taking depositions in civil cases in courts of record.

(E) After the conclusion of a hearing the chief shall make a determination and finding of facts. Every adjudication, determination, or finding by the chief shall be made by written order and shall contain a written finding by the chief of the facts upon which the adjudication, determination, or finding is based. Notice of the making of such order shall be given to the persons whose rights, duties, or privileges are affected thereby, by sending a certified copy thereof by registered mail to each of such persons.

Adjudications, determinations, findings, and orders made by the chief shall not be governed by, or be subject to, Chapter 119. of the Revised Code.

Sec. 1571.14. Any person claiming to be aggrieved or adversely affected by an order of the chief of the division of mineral resources management made as provided in section 1571.10 or 1571.16 of the Revised Code may appeal to the director of natural resources for an order vacating or modifying such order. Upon receipt of the appeal, the director shall appoint an individual who has knowledge of the laws and rules regarding the underground storage of gas and who shall act as a hearing officer in accordance with Chapter 119. of the Revised Code in hearing the appeal.

The person appealing to the director shall be known as appellant and the chief shall be known as appellee. The appellant and the appellee shall be deemed parties to the appeal.

The appeal shall be in writing and shall set forth the order complained of and the grounds upon which the appeal is based. The appeal shall be filed with the director within thirty days after the date upon which appellant received notice by registered mail of the making of the order complained of, as required by section 1571.10 of the Revised Code. Notice of the filing of such appeal shall be delivered by appellant to the chief within three days after the appeal is filed with the director.

Within seven days after receipt of the notice of appeal the chief shall prepare and certify to the director at the expense of appellant a complete transcript of the proceedings out of which the appeal arises, including a transcript of the testimony submitted to the chief.

Upon the filing of the appeal the director shall fix the time and place at

which the hearing on the appeal will be held, and shall give appellant and the chief at least ten days' written notice thereof by mail. The director may postpone or continue any hearing upon the director's own motion or upon application of appellant or of the chief.

The filing of an appeal provided for in this section does not automatically suspend or stay execution of the order appealed from, but upon application by the appellant the director may suspend or stay such execution pending determination of the appeal upon such terms as the director deems proper.

The hearing officer appointed by the director shall hear the appeal de novo, and either party to the appeal may submit such evidence as the hearing officer deems admissible.

For the purpose of conducting a hearing on an appeal, the hearing officer may require the attendance of witnesses and the production of books, records, and papers, and may, and at the request of any party shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, or papers, directed to the sheriffs of the counties where such witnesses are found, which subpoenas shall be served and returned in the same manner as subpoenas in criminal cases are served and returned. The fees ~~and mileage~~ of sheriffs ~~and witnesses~~ shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Such fee and mileage expenses incurred at the request of appellant shall be paid in advance by appellant, and the remainder of such expenses shall be paid out of funds appropriated for the expenses of the division of mineral resources management.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which such disobedience, neglect, or refusal occurs, or any judge thereof, on application of the director, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Witnesses at such hearings shall testify under oath, and the hearing officer may administer oaths or affirmations to persons who so testify.

At the request of any party to the appeal, a stenographic record of the testimony and other evidence submitted shall be taken by an official court shorthand reporter at the expense of the party making the request therefor. The record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The hearing

officer shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the ruling of the hearing officer thereon, and if the hearing officer refuses to admit evidence, the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

If upon completion of the hearing the hearing officer finds that the order appealed from was lawful and reasonable, the hearing officer shall make a written order affirming the order appealed from. If the hearing officer finds that such order was unreasonable or unlawful, the hearing officer shall make a written order vacating the order appealed from and making the order that it finds the chief should have made. Every order made by the hearing officer shall contain a written finding by the hearing officer of the facts upon which the order is based. Notice of the making of such order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each such party by registered mail.

Sec. 1707.23. Whenever it appears to the division of securities, from its files, upon complaint, or otherwise, that any person has engaged in, is engaged in, or is about to engage in any practice declared to be illegal or prohibited by this chapter or rules adopted under this chapter by the division, or defined as fraudulent in this chapter or rules adopted under this chapter by the division, or any other deceptive scheme or practice in connection with the sale of securities, or acting as a dealer, a salesperson, an investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer or when the division believes it to be in the best interests of the public and necessary for the protection of investors, the division may do any of the following:

(A) Require any person to file with it, on such forms as it prescribes, an original or additional statement or report in writing, under oath or otherwise, as to any facts or circumstances concerning the issuance, sale, or offer for sale of securities within this state by the person, as to the person's acts or practices as a dealer, a salesperson, an investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer within this state, and as to other information as it deems material or relevant thereto;

(B) Examine any investment adviser, investment adviser representative, state retirement system investment officer, bureau of workers' compensation chief investment officer, or any seller, dealer, salesperson, or issuer of any securities, and any of their agents, employees, partners, officers, directors, members, or shareholders, wherever located, under oath; and examine and

produce records, books, documents, accounts, and papers as the division deems material or relevant to the inquiry;

(C) Require the attendance of witnesses, and the production of books, records, and papers, as are required either by the division or by any party to a hearing before the division, and for that purpose issue a subpoena for any witness, or a subpoena duces tecum to compel the production of any books, records, or papers. The subpoena shall be served by personal service or by certified mail, return receipt requested. If the subpoena is returned because of inability to deliver, or if no return is received within thirty days of the date of mailing, the subpoena may be served by ordinary mail. If no return of ordinary mail is received within thirty days after the date of mailing, service shall be deemed to have been made. If the subpoena is returned because of inability to deliver, the division may designate a person or persons to effect either personal or residence service upon the witness. The person designated to effect personal or residence service under this division may be the sheriff of the county in which the witness resides or may be found or any other duly designated person. The fees and mileage of the person serving the subpoena shall be the same as those allowed by the courts of common pleas in criminal cases, and shall be paid from the funds of the division. Fees and mileage for the witness shall be ~~the same as those allowed for witnesses by the courts of common pleas in criminal cases~~ determined under section 119.094 of the Revised Code, and shall be paid from the funds of the division upon request of the witness following the hearing.

(D) Initiate criminal proceedings under section 1707.042 or 1707.44 of the Revised Code or rules adopted under those sections by the division by laying before the prosecuting attorney of the proper county any evidence of criminality which comes to its knowledge; and in the event of the neglect or refusal of the prosecuting attorney to prosecute such violations, or at the request of the prosecuting attorney, the division shall submit the evidence to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries.

(E) Require any dealers immediately to furnish to the division copies of prospectuses, circulars, or advertisements respecting securities that they publish or generally distribute, or require any investment advisers immediately to furnish to the division copies of brochures, advertisements, publications, analyses, reports, or other writings that they publish or distribute;

(F) Require any dealers to mail to the division, prior to sale, notices of intention to sell, in respect to all securities which are not exempt under section 1707.02 of the Revised Code, or which are sold in transactions not exempt under section 1707.03 or 1707.04 of the Revised Code;

(G) Issue and cause to be served by certified mail upon all persons affected an order requiring the person or persons to cease and desist from the acts or practices appearing to the division to constitute violations of this chapter or rules adopted under this chapter by the division. The order shall state specifically the section or sections of this chapter or the rule or rules adopted under this chapter by the division that appear to the division to have been violated and the facts constituting the violation. If after the issuance of the order it appears to the division that any person or persons affected by the order have engaged in any act or practice from which the person or persons shall have been required, by the order, to cease and desist, the director of commerce may apply to the court of common pleas of any county for, and upon proof of the validity of the order of the division, the delivery of the order to the person or persons affected, and of the illegality and the continuation of the acts or practices that are the subject of the order, the court may grant an injunction implementing the order of the division.

(H) Issue and initiate contempt proceedings in this state regarding subpoenas and subpoenas duces tecum at the request of the securities administrator of another state, if it appears to the division that the activities for which the information is sought would violate this chapter if the activities had occurred in this state.

(I) The remedies provided by this section are cumulative and concurrent with any other remedy provided in this chapter, and the exercise of one remedy does not preclude or require the exercise of any other remedy.

Sec. 1901.26. (A) Subject to division (E) of this section, costs in a municipal court shall be fixed and taxed as follows:

(1)(a) The municipal court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (C) of this section, and in all other cases, by rule, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding.

(b)(i) The legislative authority of a municipal corporation may by ordinance establish a schedule of fees to be taxed as costs in any civil, criminal, or traffic action or proceeding in a municipal court for the performance by officers or other employees of the municipal corporation's police department or marshal's office of any of the services specified in sections 311.17 and 509.15 of the Revised Code. No fee in the schedule shall be higher than the fee specified in section 311.17 of the Revised Code

for the performance of the same service by the sheriff. If a fee established in the schedule conflicts with a fee for the same service established in another section of the Revised Code or a rule of court, the fee established in the other section of the Revised Code or the rule of court shall apply.

(ii) When an officer or employee of a municipal police department or marshal's office performs in a civil, criminal, or traffic action or proceeding in a municipal court a service specified in section 311.17 or 509.15 of the Revised Code for which a taxable fee has been established under this or any other section of the Revised Code, the applicable legal fees and any other extraordinary expenses, including overtime, provided for the service shall be taxed as costs in the case. The clerk of the court shall pay those legal fees and other expenses, when collected, into the general fund of the municipal corporation that employs the officer or employee.

(iii) If a bailiff of a municipal court performs in a civil, criminal, or traffic action or proceeding in that court a service specified in section 311.17 or 509.15 of the Revised Code for which a taxable fee has been established under this section or any other section of the Revised Code, the fee for the service is the same and is taxable to the same extent as if the service had been performed by an officer or employee of the police department or marshal's office of the municipal corporation in which the court is located. The clerk of that court shall pay the fee, when collected, into the general fund of the entity or entities that fund the bailiff's salary, in the same ~~pro-rated~~ prorated amount as the salary is funded.

(iv) Division (A)(1)(b) of this section does not authorize or require any officer or employee of a police department or marshal's office of a municipal corporation or any bailiff of a municipal court to perform any service not otherwise authorized by law.

(2) The municipal court, by rule, may require an advance deposit for the filing of any civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive the requirement for advance deposit upon affidavit or other evidence that a party is unable to make the required deposit.

(3) When a jury trial is demanded in any civil action or proceeding, the party making the demand may be required to make an advance deposit as fixed by rule of court, unless, upon affidavit or other evidence, the court concludes that the party is unable to make the required deposit. If a jury is called, the fees of a jury shall be taxed as costs.

(4) In any civil or criminal action or proceeding, ~~witnesses' fees shall be fixed in accordance with sections 2335.06 and 2335.08 of the Revised Code~~ each witness shall receive twelve dollars for each full day's attendance and

six dollars for each half day's attendance. Each witness in a municipal court that is not a county-operated municipal court also shall receive fifty and one-half cents for each mile necessarily traveled to and from the witness's place of residence to the action or proceeding.

(5) A reasonable charge for driving, towing, carting, storing, keeping, and preserving motor vehicles and other personal property recovered or seized in any proceeding may be taxed as part of the costs in a trial of the cause, in an amount that shall be fixed by rule of court.

(6) Chattel property seized under any writ or process issued by the court shall be preserved pending final disposition for the benefit of all persons interested and may be placed in storage when necessary or proper for that preservation. The custodian of any chattel property so stored shall not be required to part with the possession of the property until a reasonable charge, to be fixed by the court, is paid.

(7) The municipal court, as it determines, may refund all deposits and advance payments of fees and costs, including those for jurors and summoning jurors, when they have been paid by the losing party.

(8) Charges for the publication of legal notices required by statute or order of court may be taxed as part of the costs, as provided by section 7.13 of the Revised Code.

(B)(1) The municipal court may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

If the municipal court offers a special program or service in cases of a specific type, the municipal court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The municipal court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (B) of this section shall be paid to the county treasurer if the court is a county-operated municipal court or to the city treasurer if the court is not a county-operated municipal court for deposit into either a general special projects fund or a fund established for a

specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under division (B) of this section, the municipal court may order that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

(2) As used in division (B) of this section:

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

(C) The municipal court shall collect in all its divisions except the small claims division the sum of twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. The municipal court shall collect in its small claims division the sum of eleven dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. This division does not apply to any execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other court costs imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation. The treasurer of state shall deposit four per cent of the funds

collected under this division to the credit of the civil case filing fee fund established under section 120.07 of the Revised Code and ninety-six per cent of the funds collected under this division to the credit of the legal aid fund established under section 120.52 of the Revised Code.

The court may retain up to one per cent of the moneys it collects under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division.

(D) In the Cleveland municipal court, reasonable charges for investigating titles of real estate to be sold or disposed of under any writ or process of the court may be taxed as part of the costs.

(E) Under the circumstances described in sections 2969.21 to 2969.27 of the Revised Code, the clerk of the municipal court shall charge the fees and perform the other duties specified in those sections.

(F) As used in this section:

(1) "Full day's attendance" means a day on which a witness is required or requested to be present at an action or proceeding before and after twelve noon, regardless of whether the witness actually testifies.

(2) "Half day's attendance" means a day on which a witness is required or requested to be present at an action or proceeding either before or after twelve noon, but not both, regardless of whether the witness actually testifies.

Sec. 1905.26. In cases for the violation of ordinances, the fees of witnesses shall be paid, on the certificate of the officer presiding at the trial, from the treasury of the municipal corporation. Witnesses shall be paid the fees and mileage provided for under section 1901.26 of the Revised Code.

Sec. 2335.06. Each witness in civil cases shall receive the following fees:

(A) Twelve dollars for each full day's attendance and six dollars for each half day's attendance at a court of record, mayor's court, or before a person authorized to take depositions, to be taxed in the bill of costs. Each witness shall also receive ~~ten cents~~ reimbursement for each mile necessarily traveled to and from ~~his~~ the witness's place of residence to the place of giving ~~his~~ testimony, to be taxed in the bill of costs. The board of county commissioners of each county shall set the reimbursement rate for each mile necessarily traveled by a witness in a civil case in the common pleas court, any division of the common pleas court, a county court, or a county-operated municipal court. The rate shall not exceed fifty and one-half cents for each mile.

(B) For attending a coroner's inquest, the same fees and mileage provided by division (A) of this section, payable from the county treasury on

the certificate of the coroner.

(C) As used in this section, "full day's attendance" means a day on which a witness is required or requested to be present at proceedings before and after twelve noon regardless of whether ~~he~~ the witness actually testifies; "half day's attendance" means a day on which a witness is required or requested to be present at proceedings either before or after twelve noon, but not both, regardless of whether ~~he~~ the witness actually testifies.

Sec. 2335.08. Each witness attending, under recognizance or subpoena issued by order of the prosecuting attorney or defendant, before the grand jury or ~~any court of record~~ the common pleas court, any division of the common pleas court, a county court, or a county-operated municipal court, in criminal causes, shall be allowed the same fees as provided by section 2335.06 of the Revised Code in civil causes, to be taxed in only one cause when such witness is attending in more causes than one on the same days, unless otherwise directed by special order of the court. When certified to the county auditor by the clerk of the court, such fees shall be paid from the county treasury, and except as to the grand jury, taxed in the bill of costs. ~~Each witness attending before a judge of a county court, magistrate, or mayor, under subpoena in criminal cases, shall be allowed the fees provided by such section for witnesses in the court of common pleas.~~ In state cases such fees shall be paid out of the county treasury, and in ordinance cases they shall be paid out of the treasury of the municipal corporation, upon the certificates of the judge or magistrate, and they shall be taxed in the bill of costs.

When the fees enumerated by this section have been collected from the judgment debtor, they shall be paid to the public treasury from which such fees were advanced.

Sec. 2743.06. Any witness subpoenaed or whose deposition is taken shall receive the same fees and mileage ~~set forth in~~ as witnesses are provided under section ~~2335.06~~ 119.094 of the Revised Code. The party at whose instance the witness appears or the deposition is taken shall pay the fees and mileage, except that the state may not pay the fees to its own employees.

Sec. 2743.65. (A) The attorney general shall determine, and the state shall pay, in accordance with this section attorney's fees, commensurate with services rendered, to the attorney representing a claimant under sections 2743.51 to 2743.72 of the Revised Code. The attorney shall submit on an application form an itemized fee bill at the rate of sixty dollars per hour upon receipt of the final decision on the claim. Attorney's fees paid pursuant to this section are subject to the following maximum amounts:

(1) A maximum of seven hundred twenty dollars for claims resolved without the filing of an appeal to the panel of commissioners;

(2) A maximum of one thousand twenty dollars for claims in which an appeal to the panel of commissioners is filed plus, at the request of an attorney whose main office is not in Franklin county, Delaware county, Licking county, Fairfield county, Pickaway county, Madison county, or Union county, an amount for the attorney's travel time to attend the oral hearing before the panel of commissioners at the rate of thirty dollars per hour;

(3) A maximum of one thousand three hundred twenty dollars for claims in which an appeal to a judge of the court of claims is filed plus, at the request of an attorney whose main office is not in Franklin county, Delaware county, Licking county, Fairfield county, Pickaway county, Madison county, or Union county, an amount for the attorney's travel time to attend the oral hearing before the judge at the rate of thirty dollars per hour;

(4) A maximum of seven hundred twenty dollars for a supplemental reparations application;

(5) A maximum of two hundred dollars if the claim is denied on the basis of a claimant's or victim's conviction of a felony offense prior to the filing of the claim. If the claimant or victim is convicted of a felony offense during the pendency of the claim, the two hundred dollars maximum does not apply. If the attorney had knowledge of the claimant's or victim's felony conviction prior to the filing of the application for the claim, the attorney general may determine that the filing of the claim was frivolous and may deny attorney's fees.

(B) The attorney general may determine that an attorney be reimbursed for fees incurred in the creation of a guardianship if the guardianship is required in order for an individual to receive an award of reparations, and those fees shall be reimbursed at a rate of sixty dollars per hour.

(C)(1) The attorney general shall forward an application form for attorney's fees to a claimant's attorney before or when the final decision on a claim is rendered. The application form for attorney's fees shall do all of the following:

- (a) Inform the attorney of the requirements of this section;
- (b) Require a verification statement comporting with the law prohibiting falsification;
- (c) Require an itemized fee statement;
- (d) Require a verification statement that the claimant was served a copy of the completed application form;
- (e) Include notice that the claimant may oppose the application by

notifying the attorney general in writing within ten days.

(2) The attorney general shall forward a copy of this section to the attorney with the application form for attorney's fees. The attorney shall file the application form with the attorney general. The attorney general's decision with respect to an award of attorney's fees is final ten days after the attorney general renders the decision and mails a copy of the decision to the attorney at the address provided by the attorney. The attorney may request reconsideration of the decision on grounds that it is insufficient or calculated incorrectly. The attorney general's decision on the request for reconsideration is final.

(D) The attorney general shall review all application forms for attorney's fees that are submitted by a claimant's attorney and shall issue an order approving the amount of fees to be paid to the attorney within sixty days after receipt of the application form.

(E) No attorney's fees shall be paid for the following:

(1) Estate work or representation of a claimant against a collateral source;

(2) Duplication of investigative work required to be performed by the attorney general;

(3) Performance of unnecessary criminal investigation of the offense;

(4) Presenting or appealing an issue that has been repeatedly ruled upon by the highest appellate authority, unless a unique set of facts or unique issue of law exists that distinguishes it;

(5) A fee request that is unreasonable, is not commensurate with services rendered, violates the Ohio code of professional responsibility, or is based upon services that are determined to be frivolous.

(F)(1) The attorney general may reduce or deny the payment of attorney's fees to an attorney who has filed a frivolous claim. Subject to division (A)(5) of this section, the denial of a claim on the basis of a felony conviction, felony conduct, or contributory misconduct does not constitute a frivolous claim.

(2) As used in this section, "frivolous claim" means a claim in which there is clearly no legal grounds under the existing laws of this state to support the filing of a claim on behalf of the claimant or victim.

(G) The attorney general may determine that a lesser number of hours should have been required in a given case. Additional reimbursement may be made where the attorney demonstrates to the attorney general that the nature of the particular claim required the expenditure of an amount in excess of that allowed.

(H) No attorney shall receive payment under this section for assisting a

claimant with an application for an award of reparations under sections 2743.51 to 2743.72 of the Revised Code if that attorney's fees have been allowed as an expense in accordance with division (F)(4) of section 2743.51 of the Revised Code.

(I) A contract or other agreement between an attorney and any person that provides for the payment of attorney's fees or other payments in excess of the attorney's fees allowed under this section for representing a claimant under sections 2743.51 to 2743.72 of the Revised Code shall be void and unenforceable.

(J) Each witness who appears in a hearing on a claim for an award of reparations shall receive compensation in an amount equal to that received by witnesses ~~in civil cases as provided in~~ under section ~~2335.06~~ 119.094 of the Revised Code.

Sec. 3333.30. The chancellor of the Ohio board of regents may enter into an agreement with private entities to provide log-in access or an internet link to free career information for students via the web site maintained by the chancellor. A log-in access or internet link authorized under this section shall not be considered an advertisement, endorsement, or sponsorship for purposes of the regulation of state-controlled web sites under any section of the Revised Code, any rule of the Administrative Code, or any other policy or directive adopted or issued by the office of information technology or any other state agency.

Sec. 3745.05. In hearing the appeal, if an adjudication hearing was conducted by the director of environmental protection in accordance with sections 119.09 and 119.10 of the Revised Code or conducted by a board of health, the environmental review appeals commission is confined to the record as certified to it by the director or the board of health, as applicable. The commission may grant a request for the admission of additional evidence when satisfied that such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the director or the board, as applicable. If no adjudication hearing was conducted in accordance with sections 119.09 and 119.10 of the Revised Code or conducted by a board of health, the commission shall conduct a hearing de novo on the appeal.

For the purpose of conducting a de novo hearing, or where the commission has granted a request for the admission of additional evidence, the commission may require the attendance of witnesses and the production of written or printed materials.

When conducting a de novo hearing, or when a request for the admission of additional evidence has been granted, the commission may,

and at the request of any party it shall, issue subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the inquiry directed to the sheriff of the counties where the witnesses or documents or records are found, which subpoenas shall be served and returned in the same manner as those allowed by the court of common pleas in criminal cases.

The fees ~~and mileage~~ of sheriffs ~~and witnesses~~ shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fee and mileage expenses incurred at the request of the appellant shall be paid in advance by the appellant, and the remainder of the expenses shall be paid out of funds appropriated for the expenses of the commission.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which the disobedience, neglect, or refusal occurs, or any judge thereof, on application of the commission or any member thereof, may compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

A witness at any hearing shall testify under oath or affirmation, which any member of the commission may administer. A witness, if the witness requests, shall be permitted to be accompanied, represented, and advised by an attorney, whose participation in the hearing shall be limited to the protection of the rights of the witness, and who may not examine or cross-examine witnesses. A witness shall be advised of the right to counsel before the witness is interrogated.

A stenographic record of the testimony and other evidence submitted shall be taken by an official court shorthand reporter. The record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The commission shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the rulings of the commission thereon, and if the commission refuses to admit evidence the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

Any party may request the stenographic record of the hearing. Promptly after receiving such a request, the commission shall prepare and provide the stenographic record of the hearing to the party who requested it. The

commission may charge a fee to the party who requested the stenographic record that does not exceed the cost to the commission for preparing and transcribing it.

If, upon completion of the hearing, the commission finds that the action appealed from was lawful and reasonable, it shall make a written order affirming the action, or if the commission finds that the action was unreasonable or unlawful, it shall make a written order vacating or modifying the action appealed from. Every order made by the commission shall contain a written finding by the commission of the facts upon which the order is based. Notice of the making of the order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each party by certified mail, with a statement of the time and method by which an appeal may be perfected.

The order of the commission is final unless vacated or modified upon judicial review.

Sec. 3901.04. (A) As used in this section:

(1) "Laws of this state relating to insurance" include but are not limited to Chapter 1751. notwithstanding section 1751.08, Chapter 1753., Title XXXIX, sections 5725.18 to 5725.25, and Chapter 5729. of the Revised Code.

(2) "Person" has the meaning defined in division (A) of section 3901.19 of the Revised Code.

(B) Whenever it appears to the superintendent of insurance, from the superintendent's files, upon complaint or otherwise, that any person has engaged in, is engaged in, or is about to engage in any act or practice declared to be illegal or prohibited by the laws of this state relating to insurance, or defined as unfair or deceptive by such laws, or when the superintendent believes it to be in the best interest of the public and necessary for the protection of the people in this state, the superintendent or anyone designated by the superintendent under the superintendent's official seal may do any one or more of the following:

(1) Require any person to file with the superintendent, on a form that is appropriate for review by the superintendent, an original or additional statement or report in writing, under oath or otherwise, as to any facts or circumstances concerning the person's conduct of the business of insurance within this state and as to any other information that the superintendent considers to be material or relevant to such business;

(2) Administer oaths, summon and compel by order or subpoena the attendance of witnesses to testify in relation to any matter which, by the laws of this state relating to insurance, is the subject of inquiry and

investigation, and require the production of any book, paper, or document pertaining to such matter. A subpoena, notice, or order under this section may be served by certified mail, return receipt requested. If the subpoena, notice, or order is returned because of inability to deliver, or if no return is received within thirty days of the date of mailing, the subpoena, notice, or order may be served by ordinary mail. If no return of ordinary mail is received within thirty days after the date of mailing, service shall be deemed to have been made. If the subpoena, notice, or order is returned because of inability to deliver, the superintendent may designate a person or persons to effect either personal or residence service upon the witness. Service of any subpoena, notice, or order and return may also be made in any manner authorized under the Rules of Civil Procedure. Such service shall be made by an employee of the department designated by the superintendent, a sheriff, a deputy sheriff, an attorney, or any person authorized by the Rules of Civil Procedure to serve process.

In the case of disobedience of any notice, order, or subpoena served on a person or the refusal of a witness to testify to a matter regarding which the person may lawfully be interrogated, the court of common pleas of the county where venue is appropriate, on application by the superintendent, may compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein. Witnesses shall receive the fees and mileage allowed by section ~~2335.06~~ 119.094 of the Revised Code. All such fees, upon the presentation of proper vouchers approved by the superintendent, shall be paid out of the appropriation for the contingent fund of the department of insurance. The fees and mileage of witnesses not summoned by the superintendent or the superintendent's designee shall not be paid by the state.

(3) In a case in which there is no administrative procedure available to the superintendent to resolve a matter at issue, request the attorney general to commence an action for a declaratory judgment under Chapter 2721. of the Revised Code with respect to the matter.

(4) Initiate criminal proceedings by presenting evidence of the commission of any criminal offense established under the laws of this state relating to insurance to the prosecuting attorney of any county in which the offense may be prosecuted. At the request of the prosecuting attorney, the attorney general may assist in the prosecution of the violation with all the rights, privileges, and powers conferred by law on prosecuting attorneys including, but not limited to, the power to appear before grand juries and to interrogate witnesses before grand juries.

Sec. 3901.321. (A) For the purposes of this section:

(1) "Acquiring party" means any person by whom or on whose behalf a merger or other acquisition of control is to be effected.

(2) "Domestic insurer" includes any person controlling a domestic insurer unless the person, as determined by the superintendent of insurance, is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(3) "Person" does not include any securities broker holding, in the usual and customary broker's function, less than twenty per cent of the voting securities of an insurance company or of any person that controls an insurance company.

(B)(1) Subject to compliance with division (B)(2) of this section, no person other than the issuer shall do any of the following if, as a result, the person would, directly or indirectly, including by means of conversion or the exercise of any right to acquire, be in control of a domestic insurer:

(a) Make a tender offer for any voting security of a domestic insurer;

(b) Make a request or invitation for tenders of any voting security of a domestic insurer;

(c) Enter into any agreement to exchange securities of a domestic insurer;

(d) Seek to acquire or acquire, in the open market or otherwise, any voting security of a domestic insurer;

(e) Enter into an agreement to merge with, or otherwise to acquire control of, a domestic insurer.

(2)(a) No person shall engage in any transaction described in division (B)(1) of this section, unless all of the following conditions are met:

(i) The person has filed with the superintendent of insurance a statement containing the information required by division (C) of this section;

(ii) The person has sent the statement to the domestic insurer;

(iii) The offer, request, invitation, agreement, or acquisition has been approved by the superintendent in the manner provided in division (F) of this section.

(b) The requirements of division (B)(2)(a) of this section shall be met at the time any offer, request, or invitation is made, or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved.

(C) The statement required by division (B)(2) of this section shall be made under oath or affirmation, and shall contain all of the following information:

(1) The name and address of each acquiring party;

(2) If the acquiring party is an individual, the individual's principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years;

(3) If the acquiring party is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as the acquiring party and any of its predecessors shall have been in existence; an informative description of the business intended to be done by the acquiring party and the acquiring party's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the acquiring party, who perform or will perform functions appropriate to such positions. The list shall include for each individual the information required by division (C)(2) of this section.

(4) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for any such purpose, including any pledge of the domestic insurer's stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing such consideration;

(5) Fully audited financial information as to the earnings and financial condition of each acquiring party for its preceding five fiscal years, or for such lesser period as the acquiring party and any of its predecessors shall have been in existence, and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement;

(6) Any plans or proposals which each acquiring party may have to liquidate such domestic insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management;

(7) The number of shares of any security of such issuer or such controlling person that each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was determined;

(8) The amount of each class of any security of such issuer or such controlling person which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(9) A full description of any contracts, arrangements, or understandings with respect to any security of such issuer or such controlling person in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or

calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the persons with whom such contracts, arrangements, or understandings have been made.

(10) A description of the purchase of any security of such issuer or such controlling person during the year preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor;

(11) A description of any recommendations to purchase any security of such issuer or such controlling person made during the year preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party;

(12) Copies of all tender offers for, requests, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities of such issuer or such controlling person, and, if distributed, of additional solicitation material relating thereto;

(13) The terms of any agreement, contract, or understanding made with or proposed to be made with any broker or dealer as to solicitation of securities of such issuer or such controlling person for tender, and the amount of any fees, commissions, or other compensation to be paid to brokers or dealers with regard thereto;

(14) With respect to proposed affiliations between depository institutions or any affiliate thereof, within the meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic insurer, the proposed effective date of the acquisition or change of control;

(15) Such additional information as the superintendent may by rule prescribe as necessary or appropriate for the protection of policyholders of the domestic insurer or in the public interest.

(D)(1) If the person required to file the statement required by division (B)(2) of this section is a partnership, limited partnership, syndicate, or other group, the superintendent may require that the information required by division (C) of this section be furnished with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person that controls such partner or member. If any such partner, member, or person is a corporation, or the person required to file the statement is a corporation, the superintendent may require that the information required by division (C) of this section be furnished with respect to the corporation, each officer and director of the corporation, and each person that is directly or indirectly the beneficial owner of more than

ten per cent of the outstanding voting securities of the corporation.

(2) If any material change occurs in the facts set forth in the statement required by division (B)(2) of this section, an amendment setting forth such change, together with copies of all documents and other material relevant to the change, shall be filed with the superintendent by the person subject to division (B)(2) of this section and sent to the domestic insurer within two business days after such person learns of the occurrence of the material change.

(E) If any offer, request, invitation, agreement, or acquisition described in division (B)(1) of this section is proposed to be made by means of a registration statement under the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or in circumstances requiring the disclosure of similar information under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78a, or under a state law requiring similar registration or disclosure, the person required to file the statement required by division (B)(2) of this section may use such documents in furnishing the information required by that statement.

(F)(1) The superintendent shall approve any merger or other acquisition of control described in division (B)(1) of this section unless, after a public hearing, the superintendent finds that any of the following apply:

(a) After the change of control, the domestic insurer would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly;

(c) The financial condition of any acquiring party is such as might jeopardize the financial stability of the domestic insurer, or prejudice the interests of its policyholders;

(d) The plans or proposals that the acquiring party has to liquidate the domestic insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the domestic insurer and not in the public interest;

(e) The competence, experience, and integrity of those persons that would control the operation of the domestic insurer are such that it would not be in the interest of policyholders of the domestic insurer and of the public to permit the merger or other acquisition of control;

(f) The acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

(2)(a) Chapter 119. of the Revised Code, except for section 119.09 of the Revised Code, applies to any hearing held under division (F)(1) of this section, including the notice of the hearing, the conduct of the hearing, the orders issued pursuant to it, the review of the orders, and all other matters relating to the holding of the hearing, but only to the extent that Chapter 119. of the Revised Code is not inconsistent or in conflict with this section.

(b) The notice of a hearing required under this division shall be transmitted by personal service, certified mail, e-mail, or any other method designed to ensure and confirm receipt of the notice, to the persons and addresses designated to receive notices and correspondence in the information statement filed under division (B)(2) of this section. Confirmation of receipt of the notice, including electronic "Read Receipt" confirmation, shall constitute evidence of compliance with the requirement of this section. The notice of hearing shall include the reasons for the proposed action and a statement informing the acquiring party that the party is entitled to a hearing. The notice also shall inform the acquiring party that at the hearing the acquiring party may appear in person, by attorney, or by such other representative as is permitted to practice before the superintendent, or that the acquiring party may present its position, arguments, or contentions in writing, and that at the hearing the acquiring party may present evidence and examine witnesses appearing for and against the acquiring party. A copy of the notice also shall be transmitted to attorneys or other representatives of record representing the acquiring party.

(c) The hearing shall be held at the offices of the superintendent within ten calendar days, but not earlier than seven calendar days, of the date of transmission of the notice of hearing by any means, unless it is postponed or continued; but in no event shall the hearing be held unless notice is received at least three days prior to the hearing. The superintendent may postpone or continue the hearing upon receipt of a written request by an acquiring party, or upon the superintendent's motion, provided, however, a hearing in connection with a proposed change of control involving a depository institution or any affiliate thereof, within the meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic insurer, may be postponed or continued only upon the request of an acquiring party, or upon the superintendent's motion when the acquiring party agrees in writing to extend the sixty-day period provided for in section 104(c) of the "Gramm-Leach-Bliley Act," by a number of days equal to the number of days of such postponement or continuance.

(d) For the purpose of conducting any hearing held under this section,

the superintendent may require the attendance of such witnesses and the production of such books, records, and papers as the superintendent desires, and may take the depositions of witnesses residing within or without the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the superintendent may, and upon the request of an acquiring party shall, issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees ~~and mileage~~ of the sheriff ~~and witnesses~~ shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Fees and mileage shall be paid from the fund in the state treasury for the use of the superintendent in the same manner as other expenses of the superintendent are paid. In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify in any matter regarding which the witness may lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs or any judge thereof, on application by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

In any hearing held under this section, a record of the testimony, as provided by stenographic means or by use of audio electronic recording devices, as determined by the superintendent, and other evidence submitted shall be taken at the expense of the superintendent. The record shall include all of the testimony and other evidence, and rulings on the admissibility thereof, presented at the hearing.

The superintendent shall pass upon the admissibility of evidence, but a party to the proceedings may at that time object to the rulings of the superintendent, and if the superintendent refuses to admit evidence, the party offering the evidence shall proffer the evidence. The proffer shall be made a part of the record of the hearing.

In any hearing held under this section, the superintendent may call any person to testify under oath as upon cross-examination. The superintendent, or any one delegated by the superintendent to conduct a hearing, may administer oaths or affirmations.

In any hearing under this section, the superintendent may appoint a hearing officer to conduct the hearing; the hearing officer has the same

powers and authority in conducting the hearing as is granted to the superintendent. The hearing officer shall have been admitted to the practice of law in the state and be possessed of any additional qualifications as the superintendent requires. The hearing officer shall submit to the superintendent a written report setting forth the hearing officer's finding of fact and conclusions of law and a recommendation of the action to be taken by the superintendent. A copy of the written report and recommendation shall, within seven days of the date of filing thereof, be served upon the acquiring party or the acquiring party's attorney or other representative of record, by personal service, certified mail, e-mail, or any other method designed to ensure and confirm receipt of the report. The acquiring party may, within three days of receipt of the copy of the written report and recommendation, file with the superintendent written objections to the report and recommendation, which objections the superintendent shall consider before approving, modifying, or disapproving the recommendation. The superintendent may grant extensions of time to the acquiring party within which to file such objections. No recommendation of the hearing officer shall be approved, modified, or disapproved by the superintendent until after three days following the service of the report and recommendation as provided in this section. The superintendent may order additional testimony to be taken or permit the introduction of further documentary evidence. The superintendent may approve, modify, or disapprove the recommendation of the hearing officer, and the order of the superintendent based on the report, recommendation, transcript of testimony, and evidence, or the objections of the acquiring party, and additional testimony and evidence shall have the same effect as if the hearing had been conducted by the superintendent. No such recommendation is final until confirmed and approved by the superintendent as indicated by the order entered in the record of proceedings, and if the superintendent modifies or disapproves the recommendations of the hearing officer, the reasons for the modification or disapproval shall be included in the record of proceedings.

After the order is entered, the superintendent shall transmit in the manner and by any of the methods set forth in division (F)(2)(b) of this section a certified copy of the order and a statement of the time and method by which an appeal may be perfected. A copy of the order shall be mailed to the attorneys or other representatives of record representing the acquiring party.

(e) An order of disapproval issued by the superintendent may be appealed to the court of common pleas of Franklin county by filing a notice

of appeal with the superintendent and a copy of the notice of appeal with the court, within fifteen calendar days after the transmittal of the copy of the order of disapproval. The notice of appeal shall set forth the order appealed from and the grounds for appeal, in accordance with section 119.12 of the Revised Code.

(3) The superintendent may retain at the acquiring party's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the superintendent's staff as may be reasonably necessary to assist the superintendent in reviewing the proposed acquisition of control.

(G) This section does not apply to either of the following:

(1) Any transaction that is subject to section 3907.09, 3907.10, 3907.11, or 3921.14, or sections 3925.27 to 3925.31, 3941.35 to 3941.46, or section 3953.19 of the Revised Code;

(2) Any offer, request, invitation, agreement, or acquisition that the superintendent by order exempts from this section on either of the following bases:

(a) It has not been made or entered into for the purpose and does not have the effect of changing or influencing the control of a domestic insurer;

(b) It is not otherwise comprehended within the purposes of this section.

(H) Nothing in this section or in any other section of Title XXXIX of the Revised Code shall be construed to impair the authority of the attorney general to investigate or prosecute actions under any state or federal antitrust law with respect to any merger or other acquisition involving domestic insurers.

(I) In connection with a proposed change of control involving a depository institution or any affiliate thereof, within the meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic insurer, not later than sixty days after the date of the notification of the proposed change in control submitted pursuant to division (B)(2) of this section, the superintendent shall make any determination that the person acquiring control of the insurer shall maintain or restore the capital of the insurer to the level required by the laws and regulations of this state.

Sec. 4112.04. (A) The commission shall do all of the following:

(1) Establish and maintain a principal office in the city of Columbus and any other offices within the state that it considers necessary;

(2) Appoint an executive director who shall serve at the pleasure of the commission and be its principal administrative officer. The executive director shall be paid a salary fixed pursuant to Chapter 124. of the Revised Code.

(3) Appoint hearing examiners and other employees and agents who it considers necessary and prescribe their duties subject to Chapter 124. of the Revised Code;

(4) Adopt, promulgate, amend, and rescind rules to effectuate the provisions of this chapter and the policies and practice of the commission in connection with this chapter;

(5) Formulate policies to effectuate the purposes of this chapter and make recommendations to agencies and officers of the state or political subdivisions to effectuate the policies;

(6) Receive, investigate, and pass upon written charges made under oath of unlawful discriminatory practices;

(7) Make periodic surveys of the existence and effect of discrimination because of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry on the enjoyment of civil rights by persons within the state;

(8) Report, from time to time, but not less than once a year, to the general assembly and the governor, describing in detail the investigations, proceedings, and hearings it has conducted and their outcome, the decisions it has rendered, and the other work performed by it, which report shall include a copy of any surveys prepared pursuant to division (A)(7) of this section and shall include the recommendations of the commission as to legislative or other remedial action;

(9) Prepare a comprehensive educational program, in cooperation with the department of education, for the students of the public schools of this state and for all other residents of this state that is designed to eliminate prejudice on the basis of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry in this state, to further good will among those groups, and to emphasize the origin of prejudice against those groups, its harmful effects, and its incompatibility with American principles of equality and fair play;

(10) Receive progress reports from agencies, instrumentalities, institutions, boards, commissions, and other entities of this state or any of its political subdivisions and their agencies, instrumentalities, institutions, boards, commissions, and other entities regarding affirmative action programs for the employment of persons against whom discrimination is prohibited by this chapter, or regarding any affirmative housing accommodations programs developed to eliminate or reduce an imbalance of race, color, religion, sex, military status, familial status, national origin, disability, or ancestry. All agencies, instrumentalities, institutions, boards, commissions, and other entities of this state or its political subdivisions, and

all political subdivisions, that have undertaken affirmative action programs pursuant to a conciliation agreement with the commission, an executive order of the governor, any federal statute or rule, or an executive order of the president of the United States shall file progress reports with the commission annually on or before the first day of November. The commission shall analyze and evaluate the progress reports and report its findings annually to the general assembly on or before the thirtieth day of January of the year immediately following the receipt of the reports.

(B) The commission may do any of the following:

(1) Meet and function at any place within the state;

(2) Initiate and undertake on its own motion investigations of problems of employment or housing accommodations discrimination;

(3) Hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, require the production for examination of any books and papers relating to any matter under investigation or in question before the commission, and make rules as to the issuance of subpoenas by individual commissioners.

(a) In conducting a hearing or investigation, the commission shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy the premises, records, documents, and other evidence or possible sources of evidence and take and record the testimony or statements of the individuals as reasonably necessary for the furtherance of the hearing or investigation. In investigations, the commission shall comply with the fourth amendment to the United States Constitution relating to unreasonable searches and seizures. The commission or a member of the commission may issue subpoenas to compel access to or the production of premises, records, documents, and other evidence or possible sources of evidence or the appearance of individuals, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in a court of common pleas.

(b) Upon written application by a respondent, the commission shall issue subpoenas in its name to the same extent and subject to the same limitations as subpoenas issued by the commission. Subpoenas issued at the request of a respondent shall show on their face the name and address of the respondent and shall state that they were issued at the respondent's request.

(c) Witnesses summoned by subpoena of the commission are entitled to the same witness and mileage fees ~~as are witnesses in proceedings in a court of common pleas~~ provided for under section 119.094 of the Revised Code.

(d) Within five days after service of a subpoena upon any person, the person may petition the commission to revoke or modify the subpoena. The commission shall grant the petition if it finds that the subpoena requires an appearance or attendance at an unreasonable time or place, that it requires production of evidence that does not relate to any matter before the commission, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena, the commission or person at whose request it was issued may petition for its enforcement in the court of common pleas in the county in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(4) Create local or statewide advisory agencies and conciliation councils to aid in effectuating the purposes of this chapter. The commission may itself, or it may empower these agencies and councils to, do either or both of the following:

(a) Study the problems of discrimination in all or specific fields of human relationships when based on race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry;

(b) Foster through community effort, or otherwise, good will among the groups and elements of the population of the state.

The agencies and councils may make recommendations to the commission for the development of policies and procedures in general. They shall be composed of representative citizens who shall serve without pay, except that reimbursement for actual and necessary traveling expenses shall be made to citizens who serve on a statewide agency or council.

(5) Issue any publications and the results of investigations and research that in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry.

Sec. 4121.16. Each witness who appears before the bureau of workers' compensation by its order shall receive for ~~his~~ the witness's attendance the fees and mileage provided for ~~witnesses in civil cases in the court of common pleas~~ under section 119.094 of the Revised Code, which shall be paid from the state insurance fund on the approval of the administrator of workers' compensation. No witnesses subpoenaed at the instance of the parties other than the bureau is entitled to compensation from the state for attendance or travel unless the bureau certifies that ~~his~~ the witness's testimony was material to the matter investigated.

Sec. 4123.13. Each officer who serves a subpoena issued under section

4123.08 of the Revised Code shall receive the same fees as a sheriff, and each witness who appears, in obedience to a subpoena, before the industrial commission or its secretary or district or staff hearing officers, the administrator of workers' compensation, or any inspector or examiner of the commission or administrator, shall receive ~~for his attendance~~ the fees and mileage provided for ~~witnesses in civil cases in courts of common pleas~~ under section 119.094 of the Revised Code, which shall be paid from the state insurance fund on the approval of any two members of the commission, if the witness is subpoenaed by the commission or its secretary, district or staff hearing officer, inspector, or examiner, or on the approval of the administrator, if the witness is subpoenaed by the administrator or ~~his~~ the administrator's inspector or examiner. No witness subpoenaed at the instance of a party other than the persons listed in this section is entitled to compensation under this section unless the administrator or commission certifies that ~~his~~ the witness's testimony was material to the matter investigated.

Sec. 4167.10. (A) In order to carry out the purposes of this chapter, the administrator of workers' compensation or the administrator's designee shall, as provided in this section, inspect and investigate any plant, facility, establishment, construction site, or any other area, workplace, or environment where work is being performed by a public employee of a public employer, and any place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and question privately any public employer, administrator, department head, operator, agent, or public employee. The authority to inspect and investigate includes the taking of environmental samples, the taking and obtaining of photographs related to the purposes of the inspection or investigation, the examination of records required to be kept under section 4167.11 of the Revised Code and other documents and records relevant to the inspection and investigation, the issuance of subpoenas, and the conducting of tests and other studies reasonably calculated to serve the purposes of implementing and enforcing this chapter. Except as provided in this section, the administrator or the administrator's designee shall conduct inspections and investigations only pursuant to a request to do so by a public employee or public employee representative, or the notification the administrator receives pursuant to division (B) of section 4167.06 of the Revised Code and only if the administrator or the administrator's designee complies with this section. The administrator or the administrator's designee shall conduct all requested or required inspections within a reasonable amount of time following receipt of the request or notification.

(B)(1) Any public employee or public employee representative who believes that a violation of an Ohio employment risk reduction standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving written notice to the administrator or the administrator's designee of the violation or danger. The notice shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the public employee or public employee representative. The names of individual public employees making the notice or referred to therein shall not appear in the copy provided to the public employer pursuant to division (B)(2) of this section and shall be kept confidential.

(2) If, upon receipt of a notification pursuant to division (B)(1) of this section, the administrator determines that there are no reasonable grounds to believe that a violation or danger exists, the administrator shall inform the public employee or public employee representative in writing of the determination. If, upon receipt of a notification, the administrator determines that there are reasonable grounds to believe that a violation or danger exists, the administrator shall, within one week, excluding Saturdays, Sundays, and any legal holiday as defined in section 1.14 of the Revised Code, after receipt of the notification, notify the public employer, by certified mail, return receipt requested, of the alleged violation or danger. The notice provided to the public employer or the public employer's agent shall contain a copy of the notice provided to the administrator by the public employee or the public employee representative under division (B)(1) of this section and shall inform the public employer of the alleged violation or danger and that the administrator or the administrator's designee will investigate and inspect the public employer's workplace as provided in this section. The public employer must respond to the administrator, in a method determined by the administrator, concerning the alleged violation or danger, within thirty days after receipt of the notice. If the public employer does not correct the violation or danger within the thirty-day period or if the public employer fails to respond within that time period, the administrator or the administrator's designee shall investigate and inspect the public employer's workplace as provided in this section. The administrator or the administrator's designee shall not conduct any inspection prior to the end of the thirty-day period unless requested or permitted by the public employer. The administrator may, at any time upon the request of the public employer, inspect and investigate any violation or danger alleged to exist at the public employer's place of employment.

(3) The authority of the administrator or the administrator's designee to investigate and inspect a premises pursuant to a public employee or public

employee representative notification is not limited to the alleged violation or danger contained in the notification. The administrator or the administrator's designee may investigate and inspect any other area of the premises where there is reason to believe that a violation or danger exists. In addition, if the administrator or the administrator's designee detects any obvious or apparent violation at any temporary place of employment while en route to the premises to be inspected or investigated, and that violation presents a substantial probability that the condition or practice could result in death or serious physical harm, the administrator or the administrator's designee may use any of the enforcement mechanisms provided in this section to correct or remove the condition or practice.

(4) If, during an inspection or investigation, the administrator or the administrator's designee finds any condition or practice in any place of employment that presents a substantial probability that the condition or practice could result in death or serious physical harm, after notifying the employer of the administrator's intent to issue an order, the administrator shall issue an order, or the administrator's designee shall issue an order after consultation either by telephone or in person with the administrator and upon the recommendation of the administrator, which prohibits the employment of any public employee or any continuing operation or process under such condition or practice until necessary steps are taken to correct or remove the condition or practice. The order shall not be effective for more than fifteen days, unless a court of competent jurisdiction otherwise orders as provided in section 4167.14 of the Revised Code.

(C) In making any inspections or investigations under this chapter, the administrator or the administrator's designee may administer oaths and require, by subpoena, the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall receive the ~~same~~ fees and mileage provided for ~~witnesses in civil cases in the court of common pleas~~ under section 119.094 of the Revised Code. In the case of contumacy, failure, or refusal of any person to comply with an order or any subpoena lawfully issued, or upon the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, a judge of the court of common pleas of any county in this state, on the application of the administrator or the administrator's designee, shall issue an order requiring the person to appear and to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question. The court may punish any failure to obey the order of the court as a contempt thereof.

(D) If, upon inspection or investigation, the administrator or the

administrator's designee believes that a public employer has violated any requirement of this chapter or any rule, Ohio employment risk reduction standard, or order adopted or issued pursuant thereto, the administrator or the administrator's designee shall, with reasonable promptness, issue a citation to the public employer. The citation shall be in writing and describe with particularity the nature of the alleged violation, including a reference to the provision of law, Ohio employment risk reduction standard, rule, or order alleged to have been violated. In addition, the citation shall fix a time for the abatement of the violation, as provided in division (H) of this section. The administrator may prescribe procedures for the issuance of a notice with respect to minor violations and for enforcement of minor violations that have no direct or immediate relationship to safety or health.

(E) Upon receipt of any citation under this section, the public employer shall immediately post the citation, or a copy thereof, at or near each place an alleged violation referred to in the citation occurred.

(F) The administrator may not issue a citation under this section after the expiration of six months following the final occurrence of any violation.

(G) If the administrator issues a citation pursuant to this section, the administrator shall mail the citation to the public employer by certified mail, return receipt requested. The public employer has fourteen days after receipt of the citation within which to notify the administrator that the employer wishes to contest the citation. If the employer notifies the administrator within the fourteen days that the employer wishes to contest the citation, or if within fourteen days after the issuance of a citation a public employee or public employee representative files notice that the time period fixed in the citation for the abatement of the violation is unreasonable, the administrator shall hold an adjudication hearing in accordance with Chapter 119. of the Revised Code.

(H) In establishing the time limits in which a public employer must abate a violation under this section, the administrator shall consider the costs to the public employer, the size and financial resources of the public employer, the severity of the violation, the technological feasibility of the public employer's ability to comply with requirements of the citation, the possible present and future detriment to the health and safety of any public employee for failure of the public employer to comply with requirements of the citation, and such other factors as the administrator determines appropriate. The administrator may, after considering the above factors, permit the public employer to comply with the citation over a period of up to two years and may extend that period an additional one year, as the administrator determines appropriate.

(I) Any public employer may request the administrator to conduct an employment risk reduction inspection of the public employer's place of employment. The administrator or the administrator's designee shall conduct the inspection within a reasonable amount of time following the request. Neither the administrator nor any other person may use any information obtained from the inspection for a period not to exceed three years in any proceeding for a violation of this chapter or any rule or order issued thereunder nor in any other action in any court in this state.

Sec. 4301.04. The liquor control commission has the following powers which it may exercise by the vote of a majority of the commissioners:

(A) To suspend, revoke, and cancel permits. A majority of the commissioners constitutes a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all powers of the commission. The act of a majority of the commission, when in session, is the act of the commission. A finding, order, or decision of the commission to suspend a permit shall state and fix the effective date of the commencement and the period of duration of such suspension. Such finding, order, or decision of the commission to revoke or cancel a permit shall state and fix the effective date thereof.

(B) To consider, hear, and determine all appeals authorized by Chapters 4301. and 4303. of the Revised Code, to be taken from any decision, determination, or order of the division of liquor control, and all complaints for the revocation of permits. The liquor control commission shall accord a hearing to any person appealing or complained against, at which such person has the right to be present, to be represented by counsel, to offer evidence, and to require the attendance of witnesses.

(C) To adopt, repeal, and amend bylaws in relation to its meetings and the transaction of its business and regulating its procedure on appeal.

(D) To consider and make recommendations upon any matter which the superintendent of liquor control submits to it for recommendation and determine any matter which the superintendent submits to it for determination.

(E) To require of the superintendent and of any officer, department, board, or commission of the state of any county, township, or municipal officer in this state, information with respect to the social and economic effects of such chapters; and all such officers, departments, boards, and commissions shall furnish such information when requested in writing by the liquor control commission.

(F) To submit to the governor amendments to any laws affecting the sale of intoxicating liquor in this state when it deems desirable.

(G) For the purpose of any hearing or investigation which they are respectively authorized or required by such chapters to conduct, the liquor control commission or any member thereof, the superintendent, or any agent of the division designated in writing for that purpose, may administer oaths, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. In case of disobedience of any person with respect to an order of the commission or a subpoena issued by the liquor control commission or any member thereof, the superintendent or such agent, or on the refusal of a witness to testify to any matter regarding which the witness may be lawfully interrogated, a judge of the court of common pleas of the county in which the person resides, on application of any member of the liquor control commission or the superintendent, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience with respect to the requirements of a subpoena issued from such court or a refusal to testify in such court. Each officer who serves such subpoena shall receive the same fees as a sheriff, and each witness who appears, in obedience to a subpoena, before the liquor control commission or any member thereof, or the superintendent, shall receive for attendance the fees and mileage provided for ~~witnesses in civil cases in courts of common pleas~~ under section 119.094 of the Revised Code, which shall be audited and paid upon presentation of proper vouchers approved by any two members of the commission. No witness subpoenaed at the instance of a party other than the liquor control commission or any member thereof, the superintendent, or such agent, is entitled to compensation unless the commission certifies that the testimony of the witness was material to the matter investigated.

Sec. 4503.03. (A)(1)(a) The registrar of motor vehicles may designate the county auditor in each county a deputy registrar. If the population of a county is forty thousand or less according to the last federal census and if the county auditor is designated by the registrar as a deputy registrar, no other person need be designated in the county to act as a deputy registrar.

(b) The registrar may designate a clerk of a court of common pleas as a deputy registrar if the population of the county is forty thousand or less according to the last federal census. All fees collected and retained by a clerk for conducting deputy registrar services shall be paid into the county treasury to the credit of the certificate of title administration fund created under section 325.33 of the Revised Code.

(c) In all other instances, the registrar shall contract with one or more

other persons in each county to act as deputy registrars.

(2) Deputy registrars shall accept applications for the annual license tax for any vehicle not taxed under section 4503.63 of the Revised Code and shall assign distinctive numbers in the same manner as the registrar. Such deputies shall be located in such locations in the county as the registrar sees fit. There shall be at least one deputy registrar in each county.

Deputy registrar contracts are subject to the provisions of division (B) of section 125.081 of the Revised Code.

(B) The registrar shall not contract with any person to act as a deputy registrar if the person or, where applicable, the person's spouse or a member of the person's immediate family has made, within the current calendar year or any one of the previous three calendar years, one or more contributions totaling in excess of one hundred dollars to any person or entity included in division (A)(2) of section 4503.033 of the Revised Code. As used in this division, "immediate family" has the same meaning as in division (D) of section 102.01 of the Revised Code, and "entity" includes any political party and any "continuing association" as defined in division (B)(4) of section 3517.01 of the Revised Code or "political action committee" as defined in division (B)(8) of that section that is primarily associated with that political party. For purposes of this division, contributions to any continuing association or any political action committee that is primarily associated with a political party shall be aggregated with contributions to that political party.

The contribution limitations contained in this division do not apply to any county auditor or clerk of a court of common pleas.

The registrar shall not contract with either of the following to act as a deputy registrar:

(1) Any elected public official other than a county auditor or, as authorized by division (A)(1)(b) of this section, a clerk of a court of common pleas, acting in an official capacity;

(2) Any person holding a current, valid contract to conduct motor vehicle inspections under section 3704.14 of the Revised Code.

(C)(1) Except as provided in division (C)(2) of this section, deputy registrars are independent contractors and neither they nor their employees are employees of this state, except that nothing in this section shall affect the status of county auditors or clerks of courts of common pleas as public officials, nor the status of their employees as employees of any of the counties of this state, which are political subdivisions of this state. Each deputy registrar shall be responsible for the payment of all unemployment compensation premiums, all workers' compensation premiums, social

security contributions, and any and all taxes for which the deputy registrar is legally responsible. Each deputy registrar shall comply with all applicable federal, state, and local laws requiring the withholding of income taxes or other taxes from the compensation of the deputy registrar's employees. Each deputy registrar shall maintain during the entire term of the deputy registrar's contract a policy of business liability insurance satisfactory to the registrar and shall hold the department of public safety, the director of public safety, the bureau of motor vehicles, and the registrar harmless upon any and all claims for damages arising out of the operation of the deputy registrar agency.

(2) For purposes of Chapter 4141. of the Revised Code, determinations concerning the employment of deputy registrars and their employees shall be made under Chapter 4141. of the Revised Code.

(D)(1) With the approval of the director, the registrar shall adopt rules governing the terms of the contract between the registrar and each deputy registrar and specifications for the services to be performed. The rules shall include specifications relating to the amount of bond to be given as provided in this section; the size and location of the deputy's office; and the leasing of equipment necessary to conduct the vision screenings required under section 4507.12 of the Revised Code and training in the use of the equipment. The specifications shall permit and encourage every deputy registrar to inform the public of the location of the deputy registrar's office and hours of operation by means of public service announcements and allow any deputy registrar to advertise in regard to the operation of the deputy registrar's office. The rules also shall include specifications for the hours the deputy's office is to be open to the public and shall require as a minimum that one deputy's office in each county be open to the public for at least four hours each weekend, provided that if only one deputy's office is located within the boundary of the county seat, that office is the office that shall be open for the four-hour period each weekend, and that every deputy's office in each county shall be open to the public until six-thirty p.m. on at least one weeknight each week. The rules also shall include specifications providing that every deputy in each county, upon request, provide any person with information about the location and office hours of all deputy registrars in the county and that every deputy prominently display within the deputy's office, the toll-free telephone number of the bureau. The rules shall not prohibit the award of a deputy registrar contract to a nonprofit corporation formed under the laws of this state. The rules shall prohibit any deputy registrar from operating more than one such office at any time, except that the rules may permit a nonprofit corporation formed for the purposes of providing

automobile-related services to its members or the public and that provides such services from more than one location in this state to operate a deputy registrar office at any such location, provided that the nonprofit corporation operates no more than one deputy registrar office in any one county. The rules may include such other specifications as the registrar and director consider necessary to provide a high level of service.

(2) With the prior approval of the registrar, each deputy registrar may conduct at the location of the deputy registrar's office any business that is consistent with the functions of a deputy registrar and that is not specifically mandated or authorized by this or another chapter of the Revised Code or by implementing rules of the registrar.

(3) As used in this section and in section 4507.01 of the Revised Code, "nonprofit corporation" has the same meaning as in section 1702.01 of the Revised Code.

(E) Unless otherwise terminated and except for interim contracts of less than one year, contracts with deputy registrars shall be for a term of at least two years, but no more than three years, and all contracts effective on or after July 1, 1996, shall be for a term of more than two years, but not more than three years. All contracts with deputy registrars shall expire on the last Saturday of June in the year of their expiration. The auditor of state may examine the accounts, reports, systems, and other data of each deputy registrar at least every two years. The registrar, with the approval of the director, shall immediately remove a deputy who violates any provision of the Revised Code related to the duties as a deputy, any rule adopted by the registrar, or a term of the deputy's contract with the registrar. The registrar also may remove a deputy who, in the opinion of the registrar, has engaged in any conduct that is either unbecoming to one representing this state or is inconsistent with the efficient operation of the deputy's office.

If the registrar, with the approval of the director, determines that there is good cause to believe that a deputy registrar or a person proposing for a deputy registrar contract has engaged in any conduct that would require the denial or termination of the deputy registrar contract, the registrar may require the production of books, records, and papers as the registrar determines are necessary, and may take the depositions of witnesses residing within or outside the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the registrar may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where the witness resides or is found. Such a subpoena shall be served and returned in the same manner as

a subpoena in a criminal case is served and returned. The fees ~~and mileage~~ of the sheriff ~~and witnesses~~ shall be the same as that allowed in the court of common pleas in criminal cases ~~and~~. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fees and mileage shall be paid from the fund in the state treasury for the use of the agency in the same manner as other expenses of the agency are paid.

In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which the witness lawfully may be interrogated, the court of common pleas of any county where the disobedience, neglect, or refusal occurs or any judge of that court, on application by the registrar, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from that court, or a refusal to testify in that court.

Nothing in this division shall be construed to require a hearing of any nature prior to the termination of any deputy registrar contract by the registrar, with the approval of the director, for cause.

(F) Except as provided in section 2743.03 of the Revised Code, no court, other than the court of common pleas of Franklin county, has jurisdiction of any action against the department of public safety, the director, the bureau, or the registrar to restrain the exercise of any power or authority, or to entertain any action for declaratory judgment, in the selection and appointment of, or contracting with, deputy registrars. Neither the department, the director, the bureau, nor the registrar is liable in any action at law for damages sustained by any person because of any acts of the department, the director, the bureau, or the registrar, or of any employee of the department or bureau, in the performance of official duties in the selection and appointment of, and contracting with, deputy registrars.

(G) The registrar shall assign to each deputy registrar a series of numbers sufficient to supply the demand at all times in the area the deputy registrar serves, and the registrar shall keep a record in the registrar's office of the numbers within the series assigned. Each deputy shall be required to give bond in the amount of at least twenty-five thousand dollars, or in such higher amount as the registrar determines necessary, based on a uniform schedule of bond amounts established by the registrar and determined by the volume of registrations handled by the deputy. The form of the bond shall be prescribed by the registrar. The bonds required of deputy registrars, in the discretion of the registrar, may be individual or schedule bonds or may be included in any blanket bond coverage carried by the department.

(H) Each deputy registrar shall keep a file of each application received

by the deputy and shall register that motor vehicle with the name and address of its owner.

(I) Upon request, a deputy registrar shall make the physical inspection of a motor vehicle and issue the physical inspection certificate required in section 4505.061 of the Revised Code.

(J) Each deputy registrar shall file a report semi-annually with the registrar of motor vehicles listing the number of applicants for licenses the deputy has served, the number of voter registration applications the deputy has completed and transmitted to the board of elections, and the number of voter registration applications declined.

Sec. 4517.32. Subject to sections 119.01 to 119.12 of the Revised Code, the motor vehicle dealers board may make such reasonable rules as are necessary to carry out and effect its duties under this chapter, including such rules as are necessary relating to the time, place, and manner of conducting hearings on the issuance, suspension, or revocation of licenses, and on protests filed under sections 4517.50, 4517.52, 4517.53, 4517.54, and 4517.56 of the Revised Code. The board may hear testimony in matters relating to the duties imposed upon it and the president and the secretary of the board may administer oaths. The board may require any proof it considers advisable and may require the attendance of such witnesses and the production of such books, records, and papers as it desires at any hearing before it or relating to any matter that it has authority to investigate. The board may, through its secretary, issue a subpoena for any witness, or a subpoena duces tecum for the production of any books, records, and papers, directed to the sheriff of the county where such witness resides or is found, which subpoena shall be served and returned in the same manner as a subpoena in a criminal case.

The fees ~~and mileage~~ of the sheriff ~~and witnesses~~ shall be the same as that allowed in the court of common pleas in criminal cases ~~and~~ Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fees and mileage shall be paid in the same manner as other expenses of the board.

Depositions of witnesses residing within or without the state may be taken by the board in the manner prescribed for like depositions in civil actions in the court of common pleas. In any case of disobedience to or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs, or any judge thereof on application of the secretary of the board, shall compel obedience by attachment

proceedings for contempt as in the case of disobedience of a subpoena issued from such court or a refusal to testify therein.

Sec. 4701.29. (A) The accountancy board may investigate whether a person has violated any provision of this chapter or rule adopted under it before commencing a disciplinary proceeding pursuant to section 4701.16 of the Revised Code or taking legal action pursuant to section 4701.18 of the Revised Code. An investigation under this section is not subject to Chapter 119. of the Revised Code.

The board may appoint a committee of board members or staff employed by the board to conduct an investigation. notwithstanding any statute or rule to the contrary, a board member who participates in an investigation may participate actively in any hearing or proceeding to the same extent as a board member who did not participate in the investigation.

(B) During an investigation, the board may administer oaths, order the taking of depositions, issue subpoenas, compel the attendance and testimony of a person at a deposition, and compel the production of any form of documentary evidence or record. Subpoenas and orders to compel under this section may be served by a designee of the board or by certified mail, return receipt requested, to the residence or place of business of the individual, professional association, firm, corporation, partnership, sole proprietorship, limited liability company, or other business organization named in the subpoena or order.

(C)(1) Any witness who appears in response to a subpoena of the board may request, and shall receive within a reasonable time after making the request, the fees and mileage provided for ~~witnesses in civil cases in the courts of common pleas in this state~~ under section 119.094 of the Revised Code.

(2) If a person fails to comply with a subpoena or order issued by the board under this section, the board may apply to the Franklin county court of common pleas for an order compelling compliance with the board's subpoena or order. Upon application by the board and upon evidence of the person's failure to comply, the court shall compel the appearance of the persons or the production of the documents named in the board's subpoena or order in accordance with the Rules of Civil Procedure. The court also may issue any contempt citation and sanction the court deems appropriate.

(D) The investigative proceedings of the board under this section are not a public record under section 149.43 of the Revised Code, are confidential, and are not subject to discovery in any civil or administrative action or proceeding.

Sec. 4723.29. In addition to the powers conferred upon the board of

nursing by Chapter 119. of the Revised Code, the board may subpoena witnesses and require their attendance, require the testimony of witnesses and require the production by witnesses of books, papers, public records, and other documentary evidence, and examine them as it may require in relation to any matter which it has authority to investigate, inquire into, or hear.

A subpoena for patient record information shall be issued only upon approval of the executive director of the board, and the president or another member of the board designated by the president, in consultation with the office of the attorney general. Before issuance of any such subpoena, the executive director and the office of the attorney general shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule of the board, that the records sought are relevant to the alleged violation and material to the investigation, and that the records cover a reasonable period of time surrounding the alleged violation.

Upon failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to Ohio Rules of Civil Procedure.

Each officer who serves such subpoena shall receive the same fees as a sheriff, and each witness who appears, in obedience to a subpoena, before the board, shall receive the fees and mileage provided for ~~witnesses in civil cases in courts of common pleas~~ under section 119.094 of the Revised Code.

Sec. 4725.23. (A) The state board of optometry shall investigate evidence that appears to show that a person has violated any provision of sections 4725.01 to 4725.34 of the Revised Code or any rule adopted under those sections. Investigations of alleged violations shall be supervised by the member of the board appointed by the board to act as the supervising member of investigations. The supervising member shall not participate in the final vote that occurs in an adjudication of the case.

(B) In investigating a possible violation, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony. A subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board and the board's supervising member of investigations. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of

sections 4725.01 to 4725.34 of the Revised Code or any rule adopted under those sections and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is an optometrist licensed under this chapter, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the optometrist refuses to accept delivery.

Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for ~~witnesses in civil cases in the courts of common pleas~~ under section 119.094 of the Revised Code.

(C) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with other licensing boards and governmental agencies that are investigating alleged professional misconduct and with law enforcement agencies and other governmental agencies that are investigating or prosecuting alleged criminal offenses. A board or agency that receives the information shall comply with the same requirements regarding confidentiality as those with which the state board of optometry must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the board or agency that applies when the board or agency is dealing with other information in its possession. The information may be admitted into evidence in a criminal trial in accordance with the Rules of Evidence, but

the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about persons whose confidentiality was protected by the state board of optometry when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

Sec. 4728.05. (A) The superintendent of financial institutions may, either personally or by a person whom the superintendent appoints for the purpose, if the superintendent considers it advisable, investigate the business of every person licensed as a precious metals dealer under this chapter, and of every person, partnership, and corporation by whom or for which any purchase is made, whether the person, partnership, or corporation acts, or claims to act, as principal, agent, or broker, or under, or without the authority of this chapter, and for that purpose shall have free access to the books and papers thereof and other sources of information with regard to the business of the licensee or person and whether the business has been or is being transacted in accordance with this chapter. The superintendent and every examiner may examine, under oath or affirmation, any person whose testimony may relate to any business coming within this chapter.

(B) In making any investigation or conducting any hearing pursuant to this section, the superintendent or a person designated by the superintendent, at any time, may do any of the following:

- (1) Compel by subpoena the attendance of witnesses;
- (2) Take depositions of witnesses residing without the state in the manner provided for in civil actions;
- (3) Pay witnesses the fees and mileage ~~for their attendance~~ provided for ~~witnesses in civil actions~~ under section 119.094 of the Revised Code;
- (4) Administer oaths;
- (5) Compel by order or subpoena duces tecum the production of all relevant books, records, accounts, and other documents and examine such books, records, accounts, and other documents.

(C) If a person fails to comply with a subpoena or subpoena duces tecum, the superintendent may apply to the court of common pleas of Franklin county for an order compelling the person to comply with the subpoena or subpoena duces tecum or, for failure to do so, an order holding the person in contempt of court. The superintendent, in accordance with section 4728.03 of the Revised Code, may suspend or revoke the license of any precious metals dealer who fails to comply with this division.

(D) In connection with any investigation under this section, the

superintendent may file an action in the court of common pleas of Franklin county or the court of common pleas of the county in which the person who is the subject of the investigation resides to obtain an injunction, a temporary restraining order, or other appropriate relief, if it appears to the superintendent that the person is engaging in actions or threatening to engage in actions in violation of this chapter.

(E) If in an investigation under this section the superintendent determines that a person not licensed under this chapter, or an employee of that person, has been or is engaged or is threatening to engage in activities for which a license is required under this chapter, the superintendent may issue an order to that person requiring the person to show cause why the person should not be subject to licensure under this chapter. If the superintendent determines, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, that a person is engaged in, or is threatening to engage in activities that constitute a violation of this chapter, the superintendent may issue a cease and desist order that describes the person and activities that are subject to the order and may impose upon the person a penalty of not less than one hundred nor more than ten thousand dollars for a violation of this chapter. Any cease and desist order and any penalty issued under this section are enforceable in and may be appealed to a court of common pleas pursuant to Chapter 119. of the Revised Code.

Sec. 4730.26. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or a rule adopted under it. In an investigation involving the practice or supervision of a physician assistant pursuant to the policies of a health care facility, the board may require that the health care facility provide any information the board considers necessary to identify either or both of the following:

(1) The facility's policies for the practice of physician assistants within the facility;

(2) The services that the facility has authorized a particular physician assistant to provide for the facility.

(B) Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or rule adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(C) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4730.33 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(D) In investigating a possible violation of this chapter or a rule adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or a rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a physician assistant, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for ~~witnesses in civil cases in the courts of common pleas~~ under section 119.094 of the Revised Code.

(E) All hearings and investigations of the board shall be considered civil

actions for the purposes of section 2305.252 of the Revised Code.

(F) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(G) The state medical board shall develop requirements for and provide appropriate initial and continuing training for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training council that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(H) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;

(2) The type of certificate, if any, held by the individual against whom the complaint is directed;

(3) A description of the allegations contained in the complaint;

(4) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be submitted to the physician assistant policy committee of the board and is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may revoke or may refuse to grant a certificate to a person found by the board to have committed fraud during the administration of the examination for a certificate to practice or to have committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(1) Permitting one's name or one's certificate to practice or certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;

(2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;

(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports to a child fatality review board under sections 307.621 to 307.629 of the Revised Code and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability

conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was

committed;

(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;

(16) Failure to pay license renewal fees specified in this chapter;

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual

unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual who applies for or receives a certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except when civil penalties are imposed under section 4731.225 or 4731.281 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(21) The violation of section 3701.79 of the Revised Code or of any abortion rule adopted by the public health council pursuant to section 3701.341 of the Revised Code;

(22) Any of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the

limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(23) The violation of section 2919.12 of the Revised Code or the performance or inducement of an abortion upon a pregnant woman with actual knowledge that the conditions specified in division (B) of section 2317.56 of the Revised Code have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied, unless an affirmative defense as specified in division (H)(2) of that section would apply in a civil action authorized by division (H)(1) of that section;

(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;

(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section;

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the

board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's certificate. The demonstration shall include, but shall not be limited to, the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code;

(28) Except as provided in division (N) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to

pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that individual;

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's file;

(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;

(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;

(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;

(37) Assisting suicide as defined in section 3795.01 of the Revised Code;

(38) Failure to comply with the requirements of section 2317.561 of the

Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice.

(D) For purposes of divisions (B)(10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F)(1) The board shall investigate evidence that appears to show that a

person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a person whose practice is authorized by this chapter, service of the subpoena may be

made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for ~~witnesses in civil cases in the courts of common pleas~~ under section 119.094 of the Revised Code.

(4) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(5) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(6) On a quarterly basis, the board shall prepare a report that documents

the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (a) The case number assigned to the complaint or alleged violation;
- (b) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;
- (c) A description of the allegations contained in the complaint;
- (d) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(G) If the secretary and supervising member determine that there is clear and convincing evidence that an individual has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate to practice without a prior hearing. Written allegations shall be prepared for consideration by the board.

The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(9), (11), or (13) of this

section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (B) of this section.

(I) The certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, or the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall do whichever of the following is applicable:

(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the board shall enter an order suspending the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's certificate to practice.

(2) In all circumstances in which division (I)(1) of this section does not apply, enter a final order permanently revoking the individual's certificate to

practice.

(J) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a certificate issued under this chapter shall not be effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a certificate made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate of registration in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(N) Sanctions shall not be imposed under division (B)(28) of this section against any person who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with

the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person authorized to practice pursuant to this chapter, to the extent allowed by this chapter and rules adopted by the board.

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may do all of the following:

(1) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(2) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program.

(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate;

(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program.

Sec. 4735.04. The Ohio real estate commission or the superintendent of real estate may compel, by order or subpoena, the attendance of witnesses to testify in relation to any matter over which the commission or superintendent has jurisdiction and which is the subject of inquiry and investigation by the commission or superintendent, and require the production of any book, paper, or document pertaining to such matter. For such purpose, the commission or superintendent shall have the same power as judges of county courts to administer oaths, compel the attendance of

witnesses, and punish them for refusal to testify. Service of the subpoena may be made by sheriffs or constables, or by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refused to accept delivery. Witnesses shall receive, after their appearance before the commission or superintendent, the fees and mileage ~~allowed in civil actions in courts of common pleas~~ provided for under section 119.094 of the Revised Code. If two or more witnesses travel together in the same vehicle, the mileage fee shall be paid to only one of those witnesses, but the witnesses may agree to divide the fee among themselves in any manner.

In addition to the powers granted to the commission and superintendent under this section, in case any person fails to file any statement or report, obey any subpoena, give testimony, answer questions, or produce any books, records, or papers as required by the commission or superintendent under this chapter, the court of common pleas of any county in the state, upon application made to it by the commission or superintendent setting forth such failure, may make an order awarding process of subpoena or subpoena duces tecum for the person to appear and testify before the commission or superintendent, and may order any person to give testimony and answer questions, and to produce books, records, or papers, as required by the commission or superintendent. Upon the filing of such order in the office of the clerk of the court of common pleas, the clerk, under the seal of the court, shall issue process of subpoena for the person to appear before the commission or superintendent at a time and place named in the subpoena, and each day thereafter until the examination of such person is completed. The subpoena may contain a direction that the witness bring with the witness to the examination any books, records, or papers mentioned in the subpoena. The clerk shall also issue, under the seal of the court, such other orders, in reference to the examination, appearance, and production of books, records, or papers, as the court directs. If any person so summoned by subpoena fails to obey the subpoena, to give testimony, to answer questions as required, or to obey an order of the court, the court, on motion supported by proof, may order an attachment for contempt to be issued against the person charged with disobedience of any order or injunction issued by the court under this chapter. If the person is brought before the court by virtue of the attachment, and if upon a hearing the disobedience appears, the court may order the offender to be committed and kept in close custody.

Sec. 4738.11. (A) The motor vehicle salvage dealer's licensing board shall adopt rules prescribing the physical characteristics of facilities used by

motor vehicle salvage dealers, salvage motor vehicle auctions, and salvage motor vehicle pools, which shall include requirements for fencing or otherwise screening the view of the facilities to at least the extent required for junkyards by sections 4737.07 and 4737.09 of the Revised Code. Such rules shall be consistent with the standards adopted by the director of transportation pursuant to the "Highway Beautification Act of 1965," 79 Stat. 1030, 23 U.S.C.A. 361, as amended. Enforcement of the screening regulations of this division shall be subject to approval, supervision, and action of the director of transportation. The director may enforce the screening regulations of this section if he considers that such regulations are not adequately enforced.

(B) The board may make such other reasonable rules as are necessary to carry out and effect sections 4738.01 to 4738.12 of the Revised Code, and further rules as are necessary relating to the time, place, and manner of conducting hearings on the issuance, suspension, or revocation of licenses. The board may hear testimony in matters relating to the duties imposed upon it and the president and the secretary of the board may administer oaths. The board may require any proof it deems advisable and may require the attendance of witnesses and the production of books, records, and papers as it desires at any hearing before it or relating to any matter which it has authority to investigate. The board may, through its secretary, issue a subpoena for any witness, or a subpoena duces tecum for the production of any books, records, and papers, directed to the sheriff of the county where a witness resides or is found, which subpoena shall be served and returned in the same manner as a subpoena in a criminal case.

The fees ~~and mileage~~ of the sheriff ~~and witnesses~~ shall be the same as that allowed in the court of common pleas in criminal cases ~~and~~ Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fees and mileage shall be paid in the same manner as other expenses of the board.

Depositions of witnesses residing within or without the state may be taken by the board in the manner prescribed for like depositions in civil actions in the court of common pleas. In any case of disobedience to or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, the court of common pleas of any county where disobedience, neglect, or refusal occurs, or any judge thereof on application of the secretary of the board, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of a subpoena issued from the court or a refusal to testify therein.

Sec. 4741.03. (A) The state veterinary medical licensing board shall meet at least once in each calendar year and may hold additional meetings as often as it considers necessary to conduct the business of the board. The president of the board may call special meetings, and the executive director shall call special meetings upon the written request of three members of the board. The board shall organize by electing a president and vice-president from its veterinarian members and such other officers as the board prescribes by rule. Each officer shall serve for a term specified by board rule or until a successor is elected and qualified. A quorum of the board consists of four members of which at least three are members who are veterinarians. The concurrence of four members is necessary for the board to take any action.

(B) The board may appoint a person, not one of its members, to serve as its executive director. The executive director is in the unclassified service and serves at the pleasure of the board. The executive director shall serve as the board's secretary-treasurer ex officio. The board may employ additional employees for professional, technical, clerical, and special work as it considers necessary. The executive director shall give a surety bond to the state in the sum the board requires, conditioned upon the faithful performance of the executive director's duties. The board shall pay the cost of the bond. The executive director shall keep a complete accounting of all funds received and of all vouchers presented by the board to the director of budget and management for the disbursement of funds. The president or executive director shall approve all vouchers of the board. All money received by the board shall be credited to the occupational licensing and regulatory fund.

(C) In addition to any other duty required under this chapter, the board shall do all of the following:

- (1) Prescribe a seal;
- (2) Accept and review applications for admission to an examination in accordance with section 4741.09 of the Revised Code and review the results of examinations taken by applicants in accordance with rules adopted by the board.
- (3) Keep a record of all of its meetings and proceedings;
- (4) Maintain a register that records all applicants for a certificate of license or a temporary permit, all persons who have been denied a license or permit, all persons who have been granted or reissued a license or permit, and all persons whose license or permit has been revoked or suspended. The register shall also include a record of persons licensed prior to October 17, 1975.

(5) Maintain a register, in such form as the board determines by rule, of all colleges and universities that teach veterinary medicine and veterinary technology that are approved by the board;

(6) Enforce this chapter, and for that purpose, make investigations relative as provided in section 4741.26 of the Revised Code;

(7) Issue licenses and permits to persons who meet the qualifications set forth in this chapter;

(8) Approve colleges and universities which meet the board's requirements for veterinary medicine and associated fields of study and withdraw or deny, after an adjudication conducted in accordance with Chapter 119. of the Revised Code, approval from colleges and universities which fail to meet those requirements;

(9) Adopt rules, in accordance with Chapter 119. of the Revised Code, which are necessary for its government and for the administration and enforcement of this chapter.

(D) The board may do all of the following:

(1) Subpoena witnesses and require their attendance and testimony, and require the production by witnesses of books, papers, public records, animal patient records, and other documentary evidence and examine them, in relation to any matter that the board has authority to investigate, inquire into, or hear. Except for any officer or employee of the state or any political subdivision of the state, the treasurer of state shall pay all witnesses in any proceeding before the board, upon certification from the board, witness fees and mileage in the same amount as provided in ~~section 2335.06~~ section 119.094 of the Revised Code.

(2) Examine and inspect books, papers, public records, animal patient records, and other documentary evidence at the location where the books, papers, records, and other evidence are normally stored or maintained.

(E) All registers, books, and records kept by the board are the property of the board and are open for public examination and inspection at all reasonable times in accordance with section 149.43 of the Revised Code. The registers, books, and records are prima-facie evidence of the matters contained in them.

Sec. 4760.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be

liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4760.15 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is an anesthesiologist assistant, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for ~~witnesses in civil~~

~~eases in the courts of common pleas~~ under section 119.094 of the Revised Code.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(E) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training council that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4762.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4762.15 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is an acupuncturist, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for ~~witnesses in civil cases in the courts of common pleas~~ under section 119.094 of the Revised Code.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(E) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that

contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training council that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4763.04. The real estate appraiser board or the superintendent or real estate may compel, by order or subpoena, the attendance of witnesses to testify in relation to any matter over which the board or the superintendent has jurisdiction and which is the subject of the inquiry and investigation by the board or superintendent, and require the production of any book, paper, or document pertaining to such matter. For such purpose, the board or the superintendent has the same power as judges of county courts to administer oaths, compel the attendance of witnesses, and punish witnesses for refusal to testify. Sheriffs and constables shall serve and return such process and shall receive the same fees for doing so as are allowed for like service. Witnesses shall receive, after their appearance before the board or the superintendent, the fees and mileage ~~allowed in civil actions in courts of common pleas~~ provided for under section 119.094 of the Revised Code. If two or more witnesses travel together in the same vehicle, the mileage fee shall be paid to only one of those witnesses, but the witnesses may agree to

divide the fee among themselves in any manner.

In addition to the powers and duties granted to the board and the superintendent under this section, in case any person fails to file any statement or report, obey any subpoena, give testimony, answer questions, or produce books, records, or papers as required by the board or the superintendent under this chapter, the court of common pleas of any county in the state, upon application made to it by the board or the superintendent setting forth the failure, may make an order awarding process of subpoena or subpoena duces tecum for the person to appear and testify before the board or the superintendent, and may order any person to give testimony and answer questions, and to produce books, records, or papers, as required by the board or the superintendent. Upon the filing of such order in the office of the clerk of the court of common pleas, the clerk, under the seal of the court, shall issue process or subpoena, and each day thereafter until the examination of the person is completed. The subpoena may contain a direction that the witness bring with ~~him~~ the witness to the examination any books, records, or papers mentioned in the subpoena. The clerk also shall issue, under the seal of the court, such other orders, in reference to the examination, appearance, and production of books, records, or papers, as the court directs. If any person summoned by subpoena fails to obey the subpoena, to give testimony, to answer questions as required, or to obey an order of the court, the court, on motion supported by proof, may order an attachment for contempt to be issued against the person charged with disobedience of any order or injunction issued by the court under this chapter. If the person is brought before the court by virtue of the attachment, and if upon a hearing the disobedience appears, the court may order the offender to be committed and kept in close custody.

Sec. 4769.06. In investigating possible violations of section 4769.02 of the Revised Code or conducting hearings under section 4769.03 of the Revised Code, the department of health may administer oaths, order the taking of depositions, and issue subpoenas compelling attendance of witnesses or production of documents. The subpoenas shall be served in the same manner as subpoenas and subpoenas duces tecum issued for a trial of a civil action in a court of common pleas. The department shall pay each witness who appears before the department in obedience to a subpoena the fees and mileage provided under ~~Chapter 2335. section 119.094~~ of the Revised Code ~~for witnesses in civil actions in a court of common pleas.~~

If a person who is served a subpoena fails to attend a hearing or to produce documents, or refuses to be sworn or to answer any question put to ~~him~~ the person, the department may apply to the court of common pleas of

the county in which the person resides, or the county in which the hearing under division (B) of section 4769.03 of the Revised Code is conducted, for a contempt order, as in the case of a failure of a person who is served a subpoena issued by the court to attend or to produce documents or a refusal of such person to testify.

Sec. 4903.05. Each witness who appears before the public utilities commission by its order shall receive ~~for his attendance~~ the fees and mileage provided for ~~witnesses in civil cases in courts of record~~ under section 119.094 of the Revised Code, which shall be audited and paid by the state as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the ~~chairman~~ chairperson of the commission. No witness subpoenaed at the instance of parties other than the commission is entitled to compensation from the state for attendance or travel, unless the commission certifies that ~~his~~ the witness's testimony was material to the matter investigated.

Sec. 5101.37. (A) The department of job and family services and each county department of job and family services and child support enforcement agency may make any investigations that are necessary in the performance of their duties, and to that end they shall have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers.

The department and each county department and agency shall keep a record of their investigations stating the time, place, charges or subject, witnesses summoned and examined, and their conclusions.

~~The fees of witnesses for attendance and travel~~ Witnesses shall be ~~the same as in the court of common pleas~~ paid the fees and mileage provided for under section 119.094 of the Revised Code.

(B) In conducting hearings pursuant to Chapters 3119., 3121., and 3123. or pursuant to division (B) of section 5101.35 of the Revised Code, the department and each child support enforcement agency have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers. The department and each agency shall keep a record of those hearings stating the time, place, charges or subject, witnesses summoned and examined, and their conclusions.

The issuance of a subpoena by the department or a child support enforcement agency to enforce attendance and testimony of witnesses and the production of books or papers at a hearing is discretionary and the department or agency is not required to pay the fees of witnesses for attendance and travel.

(C) Any judge of any division of the court of common pleas, upon application of the department or a county department or child support enforcement agency, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the department, county department, or agency, by a judgment for contempt or otherwise, in the same manner as in cases before those courts.

Sec. 5120.30. The department of rehabilitation and correction may make any investigations that are necessary in the performance of its duties, and to that end the director of rehabilitation and correction shall have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers.

The department shall keep a record of the investigations pursuant to the record retention schedule approved by the department of administrative services.

~~The fees of witnesses for attendance and travel~~ Witnesses shall be ~~the same as in the court of common pleas~~ paid the fees and mileage provided for under section 119.094 of the Revised Code, but no officer or employee of the institution under investigation is entitled to such fees.

Any judge of the probate court or of the court of common pleas, upon application of the department, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the department, by a judgment for contempt or otherwise, in the same manner as in cases before courts of common pleas.

Sec. 5123.14. The department of mental retardation and developmental disabilities may make such investigations as are necessary in the performance of its duties and to that end the director of mental retardation and developmental disabilities shall have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers.

The department shall keep a record of such investigations stating the time, place, charges or subject, witnesses summoned and examined, and its conclusions.

In matters involving the conduct of an officer, a stenographic report of the evidence shall be taken and a copy of such report, with all documents introduced, kept on file at the office of the department.

~~The fees of witnesses for attendance and travel~~ Witnesses shall be ~~the same as in the court of common pleas~~ paid the fees and mileage provided for under section 119.094 of the Revised Code, but no officer or employee of the institution under investigation is entitled to such fees.

Any judge of the probate court or of the court of common pleas, upon application of the department, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the department, by a judgment for contempt or otherwise, in the same manner as in cases before said courts.

Sec. 5123.96. Costs, fees, and expenses of all proceedings held under this chapter shall be paid as follows:

(A) To police and health officers, other than sheriffs or their deputies, the same fees allowed to constables, to be paid upon the approval of the probate judge;

(B) To sheriffs or their deputies, the same fees allowed for similar services in the court of common pleas;

(C) To physicians or licensed clinical psychologists acting as expert witnesses and to other expert witnesses designated by the court, an amount determined by the court;

(D) To ~~other~~ witnesses in an administrative proceeding, the same fees and mileage as ~~for attendance at the court of common pleas are provided to witnesses by section 119.094 of the Revised Code, and to witnesses in a judicial proceeding, the same fees and mileage as are provided to witnesses by section 2335.06 of the Revised Code~~, to be paid upon the approval of the probate judge;

(E) To a person, other than the sheriff or ~~his~~ the sheriff's deputies, for taking a mentally retarded person to an institution or removing a mentally retarded person from an institution, the actual necessary expenses incurred, specifically itemized, and approved by the probate judge;

(F) To assistants who convey mentally retarded persons to institutions when authorized by the probate judge, a fee set by the probate court, provided the assistants are not drawing a salary from the state or any political subdivision of the state, and their actual necessary expenses incurred, provided that the expenses are specifically itemized and approved by the probate judge;

(G) To an attorney appointed by the probate division for an indigent who allegedly is a mentally retarded person pursuant to any section of this chapter, the fees that are determined by the probate division. When those indigent persons are before the court, all filing and recording fees shall be waived.

(H) To a referee who is appointed to conduct proceedings under this chapter that involve a respondent whose domicile is or, before ~~his~~ the respondent's institutionalization, was not the county in which the proceedings are held, compensation as fixed by the probate division, but not

more than the compensation paid for similar proceedings for respondents whose domicile is in the county in which the proceedings are held;

(I) To a court reporter appointed to make a transcript of proceedings under this chapter, the compensation and fees allowed in other cases under section 2101.08 of the Revised Code.

All costs, fees, and expenses described in this section, after payment by the county from appropriations pursuant to section 2101.11 of the Revised Code, shall be certified by the county auditor to the department of mental retardation and developmental disabilities within two months of the date the costs, fees, and expenses are incurred by the county. Payment shall be provided for by the director of budget and management upon presentation of properly verified vouchers. The director of mental retardation and developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code to implement the payment of costs, fees, and expenses under this section.

Sec. 5149.11. In the exercise of any of the powers vested in the adult parole authority, the chief of the authority, any member of the board, or any hearing officer may administer oaths and in the name of the authority may issue subpoenas and subpoenas duces tecum. The authority may compel the attendance of witnesses and the production of records and papers of all kinds and description including any and all books, accounts, documents, memorandums, and transcripts of testimony, pertaining to any inquiry within the powers and duties of the authority. Upon the failure of any person to comply with any order of the authority or any subpoena or subpoena duces tecum lawfully issued, or upon the refusal of any witness to testify to any matter regarding which ~~he~~ the witness may be lawfully interrogated, a judge of the court of common pleas of any county in this state, on the application of the authority, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from a court of common pleas or a refusal to testify therein.

Each witness who appears before the authority or before a member of the parole board by ~~its~~ the authority's or ~~his~~ member's order shall receive for ~~his~~ attendance the fees and mileage provided for ~~witnesses in civil cases in the court of common pleas~~ under section ~~2335.06~~ 119.094 of the Revised Code, and the fees and mileage shall be audited and paid out of the state treasury in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers approved by the chief of the authority.

The chief of the authority or a member of the board, or any party who is

the subject of the investigation, may in any investigation cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by sections 2319.08, 2319.09, 2319.11, and 2319.27 of the Revised Code and the Civil Rules.

Copies of the proceedings, minutes, actions, findings, recommendations, orders, and other records of the authority or its predecessors shall be verified and certified to by the officer conducting or responsible for such and attested by the chief of the authority, and when certified and attested shall be received in evidence as proof of the facts therein stated.

Minutes, actions, findings, recommendations, determinations, and orders made and kept by the adult parole authority are public records.

Sec. 5703.29. Each officer who serves a summons or subpoena shall receive the same fees as a sheriff, and each witness who appears before the department of taxation by its order shall receive for ~~his~~ the witness's attendance the fees and mileage provided for ~~witnesses in civil cases in courts of common pleas~~ under section 119.094 of the Revised Code, which shall be audited and paid by the state in the same manner as other expenses, upon the presentation of proper vouchers approved by the department. A witness subpoenaed at the instance of parties other than the department shall not be entitled to compensation from the state for attendance or travel unless the department certifies that the testimony of the witness was material to the matter investigated.

Sec. 5727.62. A person who appears before the department of taxation, on its order, as to the appraisal of property in any taxing district, shall be allowed and paid out of the treasury of the proper county, if an officer of any such taxing district, ~~his~~ the person's actual and necessary traveling expenses, which shall be itemized and sworn to by the person who incurred the expense, and if other than any such officer, ~~he~~ the person shall receive for ~~his~~ attendance the fees and mileage provided for ~~witnesses in civil cases in the courts of common pleas~~ under section 119.094 of the Revised Code. Such traveling expenses and witness fees shall be audited and paid out of the county treasury of the proper county in the same manner as other expenses are audited and paid, upon the presentation of a certificate from the department certifying to the fact of such attendance.

Sec. 5924.47. (A) Any person not subject to this code who:

(1) Has been duly subpoenaed to appear as a witness or to produce books and records before a military court or before any military or civil officer designated to take a deposition to be read in evidence before such a court;

(2) Has been duly paid or tendered the fees and mileage of a witness at

~~the rates allowed to witnesses attending the court of common pleas of the state~~ provided for under section 119.094 of the Revised Code; and

(3) Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce; is guilty of an offense against the state and may be punished in the same manner as if committed before civil courts of the state.

SECTION 2. That existing sections 101.45, 117.18, 119.09, 124.09, 169.08, 317.36, 505.495, 709.032, 733.39, 1121.38, 1315.17, 1315.24, 1321.07, 1321.42, 1509.36, 1513.131, 1571.10, 1571.14, 1707.23, 1901.26, 1905.26, 2335.06, 2335.08, 2743.06, 2743.65, 3745.05, 3901.04, 3901.321, 4112.04, 4121.16, 4123.13, 4167.10, 4301.04, 4503.03, 4517.32, 4701.29, 4723.29, 4725.23, 4728.05, 4730.26, 4731.22, 4735.04, 4738.11, 4741.03, 4760.14, 4762.14, 4763.04, 4769.06, 4903.05, 5101.37, 5120.30, 5123.14, 5123.96, 5149.11, 5703.29, 5727.62, and 5924.47 of the Revised Code are hereby repealed.

Section 3. Sections 1 and 2 of this act, except for the enactment of section 3333.30 of the Revised Code, take effect July 1, 2009. The enactment of section 3333.30 of the Revised Code takes effect at the earliest time permitted by law.

SECTION 4. Section 1901.26 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 66 and Am. H.B. 226 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 525

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____